

AMENDED IN ASSEMBLY JULY 14, 2008

AMENDED IN SENATE APRIL 22, 2008

AMENDED IN SENATE APRIL 15, 2008

AMENDED IN SENATE MARCH 27, 2008

SENATE BILL

No. 1247

Introduced by Senator Lowenthal

February 15, 2008

An act to amend Sections 50199.7 and 50199.20 of, and to repeal Chapter 3.7 (commencing with Section 50199.50) of Part 1 of Division 31 of, the Health and Safety Code, and to amend Sections 12206, 17058, and 23610.5 of, and to repeal Sections 17053.14, 23608.2, and 23608.3 of, the Revenue and Taxation Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1247, as amended, Lowenthal. Farmworker housing assistance.

Existing law establishes a low-income housing tax credit program, administered by the California Tax Credit Allocation Committee, which provides procedures and requirements for the allocation of state tax credit amounts among low-income housing projects based on federal law. Existing law also establishes a farmworker housing assistance program and prescribes requirements for claiming tax credits under the program, including a requirement that expenditures upon which the amount of the credit is based shall be eligible costs, as defined, and a limitation on the amount of development fees that may be included as eligible costs.

This bill would repeal the farmworker housing assistance program and, instead, would require that an amount specified within those tax

credit provisions be set aside for projects housing farmworker households, as provided.

This bill would also repeal specified existing tax credits for farmworker housing authorized under the Personal Income Tax Law and the Corporation Tax Law.

This bill would incorporate specified changes proposed by SB 585 if both this bill and SB 585 are chaptered, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 50199.7 of the Health and Safety Code
2 is amended to read:

3 50199.7. As used in this chapter:

4 (a) “Committee” means the Mortgage Bond and Tax Credit
5 Allocation Committee, which is renamed the California Tax Credit
6 Allocation Committee. All references to “committee” shall mean
7 the California Tax Credit Allocation Committee.

8 (b) “Household” has the same meaning as defined in Section
9 7602 of Title 25 of the California Code of Regulations.

10 (c) “Housing credit” means the tax credit for low-income rental
11 housing provided under Section 42 of the federal Internal Revenue
12 Code (26 U.S.C. Sec. 42).

13 (d) “Housing credit applicant” means any owner, sponsor, or
14 developer of a qualifying low-income building or project who
15 applies to the committee for either of the following:

16 (1) An allocation of a portion of the current state housing credit
17 ceiling.

18 (2) A reservation of a portion of the anticipated state housing
19 credit ceiling of a subsequent year.

20 (e) “Housing credit ceiling” means the amount specified in
21 Section 42(h)(3)(C) of the federal Internal Revenue Code (26
22 U.S.C. Sec. 42(h)(3)(C)).

23 (f) “Qualified low-income building” or “project” has the
24 meaning specified in Section 42(c)(2) of the federal Internal
25 Revenue Code (26 U.S.C. Sec. 42(c)(2)).

26 (g) “Agricultural worker” or “farmworker” shall have the same
27 meaning as specified in subdivision (b) of Section 1140.4 of the
28 Labor Code.

1 (h) “Farmworker housing” means housing for agricultural
2 workers that is available to, and occupied by, only farmworkers
3 and their households. The committee may permit an owner to
4 temporarily house nonfarmworkers in vacant units in the event of
5 a disaster or other critical occurrence. However, such emergency
6 shelter shall only be permitted if there are no pending qualified
7 farmworker household applications for residency.

8 SEC. 2. Section 50199.20 of the Health and Safety Code is
9 amended to read:

10 50199.20. (a) Not less than 20 percent of the federal ceiling
11 on low-income housing tax credits shall be set aside for allocation
12 to rural areas as defined in Section 50199.21. Any amount of credit
13 set aside for rural areas remaining after the ranking of credits in
14 the final cycle of any calendar year shall be available for allocation
15 to any eligible project.

16 (b) Up to 2 percent of the low-income housing tax credit
17 available under this chapter and Sections 12206, 17058, and
18 23610.5 of the Revenue and Taxation Code may be set aside for
19 small developments as determined by the committee. Any amount
20 of credit set aside for small developments remaining after the
21 ranking of projects in the final cycle of any calendar year shall be
22 available for allocation to any eligible project.

23 (c) Not less than the amount specified in paragraph (4) of
24 subdivision (g) of Sections 12206, 17058, and 23610.5 of the
25 Revenue and Taxation Code shall be set aside to provide
26 farmworker housing, as defined in subdivision (h) of Section
27 50199.7 of the Health and Safety Code.

28 SEC. 3. Chapter 3.7 (commencing with Section 50199.50) of
29 Part 1 of Division 31 of the Health and Safety Code is repealed.

30 SEC. 4. Section 12206 of the Revenue and Taxation Code is
31 amended to read:

32 12206. (a) (1) There shall be allowed as a credit against the
33 “tax” (as defined by Section 12201) a state low-income housing
34 tax credit in an amount equal to the amount determined in
35 subdivision (c), computed in accordance with Section 42 of the
36 Internal Revenue Code, except as otherwise provided in this
37 section.

38 (2) “Taxpayer,” for purposes of this section, means the sole
39 owner in the case of a “C” corporation, the partners in the case of

1 a partnership, and the shareholders in the case of an “S”
2 corporation.

3 (3) “Housing sponsor,” for purposes of this section, means the
4 sole owner in the case of a “C” corporation, the partnership in the
5 case of a partnership, and the “S” corporation in the case of an “S”
6 corporation.

7 (b) (1) The amount of the credit allocated to any housing
8 sponsor shall be authorized by the California Tax Credit Allocation
9 Committee, or any successor thereof, based on a project’s need
10 for the credit for economic feasibility in accordance with the
11 requirements of this section.

12 (A) The low-income housing project shall be located in
13 California and shall meet either of the following requirements:

14 (i) Except for projects to provide farmworker housing, as defined
15 in subdivision (h) of Section 50199.7 of the Health and Safety
16 Code, that are allocated credits solely under the set-aside described
17 in subdivision (c) of Section 50199.20 of the Health and Safety
18 Code, the project’s housing sponsor shall have been allocated by
19 the California Tax Credit Allocation Committee a credit for federal
20 income tax purposes under Section 42 of the Internal Revenue
21 Code.

22 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
23 Internal Revenue Code.

24 (B) The California Tax Credit Allocation Committee shall not
25 require fees for the credit under this section in addition to those
26 fees required for applications for the tax credit pursuant to Section
27 42 of the Internal Revenue Code. The committee may require a
28 fee if the application for the credit under this section is submitted
29 in a calendar year after the year the application is submitted for
30 the federal tax credit.

31 (2) (A) The California Tax Credit Allocation Committee shall
32 certify to the housing sponsor the amount of tax credit under this
33 section allocated to the housing sponsor for each credit period.

34 (B) In the case of a partnership or an “S” corporation, the
35 housing sponsor shall provide a copy of the California Tax Credit
36 Allocation Committee certification to the taxpayer.

37 (C) The taxpayer shall attach a copy of the certification to any
38 return upon which a tax credit is claimed under this section.

39 (D) In the case of a failure to attach a copy of the certification
40 for the year to the return in which a tax credit is claimed under this

1 section, no credit under this section shall be allowed for that year
2 until a copy of that certification is provided.

3 (E) All elections made by the taxpayer pursuant to Section 42
4 of the Internal Revenue Code shall apply to this section.

5 (F) No credit shall be allocated under this section to buildings
6 located in a difficult development area or a qualified census tract
7 as defined in Section 42 of the Internal Revenue Code for which
8 the eligible basis of a new building or the rehabilitation expenditure
9 of an existing building is 130 percent of that amount pursuant to
10 Section 42(d)(5)(C) of the Internal Revenue Code, unless the
11 committee reduces the amount of federal credit, with the approval
12 of the applicant, so that the combined amount of federal and state
13 credit shall not exceed the total credit allowable pursuant to this
14 section and Section 42(b) of the Internal Revenue Code, computed
15 without regard to Section 42(d)(5)(C) of the Internal Revenue
16 Code.

17 (c) Section 42(b) of the Internal Revenue Code shall be modified
18 as follows:

19 (1) In the case of any qualified low-income building that receives
20 an allocation after 1989 and is a new building not federally
21 subsidized, the term “applicable percentage” means the following:

22 (A) For each of the first three years, the percentage prescribed
23 by the Secretary of the Treasury for new buildings that are not
24 federally subsidized for the taxable year, determined in accordance
25 with the requirements of Section 42(b)(2) of the Internal Revenue
26 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)
27 of the Internal Revenue Code.

28 (B) For the fourth year, the difference between 30 percent and
29 the sum of the applicable percentages for the first three years.

30 (2) In the case of any qualified low-income building that receives
31 an allocation after 1989 and that is a new building that is federally
32 subsidized or that is an existing building that is “at risk of
33 conversion,” the term “applicable percentage” means the following:

34 (A) For each of the first three years, the percentage prescribed
35 by the Secretary of the Treasury for new buildings that are federally
36 subsidized for the taxable year.

37 (B) For the fourth year, the difference between 13 percent and
38 the sum of the applicable percentages for the first three years.

(3) For purposes of this section, the term “at risk of conversion,” with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment anytime within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term “qualified low-income housing project” as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

1 (1) The taxpayer shall be entitled to receive a cash distribution
2 from the operations of the project, after funding required reserves,
3 which, at the election of the taxpayer, is equal to:

4 (A) An amount not to exceed 8 percent of the lesser of:

5 (i) The owner equity which shall include the amount of the
6 capital contributions actually paid to the housing sponsor and shall
7 not include any amounts until they are paid on an investor note.

8 (ii) Twenty percent of the adjusted basis of the building as of
9 the close of the first taxable year of the credit period.

10 (B) The amount of the cashflow from those units in the building
11 that are not low-income units. For purposes of computing cashflow
12 under this subparagraph, operating costs shall be allocated to the
13 low-income units using the “floor space fraction,” as defined in
14 Section 42 of the Internal Revenue Code.

15 (C) Any amount allowed to be distributed under subparagraph
16 (A) that is not available for distribution during the first five years
17 of the compliance period may accumulate and be distributed any
18 time during the first 15 years of the compliance period but not
19 thereafter.

20 (2) The limitation on return shall apply in the aggregate to the
21 partners if the housing sponsor is a partnership and in the aggregate
22 to the shareholders if the housing sponsor is an “S” corporation.

23 (3) The housing sponsor shall apply any cash available for
24 distribution in excess of the amount eligible to be distributed under
25 paragraph (1) to reduce the rent on rent-restricted units or to
26 increase the number of rent-restricted units subject to the tests of
27 Section 42(g)(1) of the Internal Revenue Code.

28 (e) The provisions of Section 42(f) of the Internal Revenue Code
29 shall be modified as follows:

30 (1) The term “credit period” as defined in Section 42(f)(1) of
31 the Internal Revenue Code is modified by substituting “four taxable
32 years” for “10 taxable years.”

33 (2) The special rule for the first taxable year of the credit period
34 under Section 42(f)(2) of the Internal Revenue Code shall not apply
35 to the tax credit under this section.

36 (3) Section 42(f)(3) of the Internal Revenue Code is modified
37 to read:

38 If, as of the close of any taxable year in the compliance period,
39 after the first year of the credit period, the qualified basis of any
40 building exceeds the qualified basis of that building as of the close

1 of the first year of the credit period, the housing sponsor, to the
2 extent of its tax credit allocation, shall be eligible for a credit on
3 the excess in an amount equal to the applicable percentage
4 determined pursuant to subdivision (c) for the four-year period
5 beginning with the later of the taxable years in which the increase
6 in qualified basis occurs.

7 (f) The provisions of Section 42(h) of the Internal Revenue
8 Code shall be modified as follows:

9 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
10 applicable and instead the following provisions shall be applicable:

11 The total amount for the four-year credit period of the housing
12 credit dollars allocated in a calendar year to any building shall
13 reduce the aggregate housing credit dollar amount of the California
14 Tax Credit Allocation Committee for the calendar year in which
15 the allocation is made.

16 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
17 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
18 not be applicable.

19 (g) The aggregate housing credit dollar amount that may be
20 allocated annually by the California Tax Credit Allocation
21 Committee pursuant to this section, Section 17058, and Section
22 23610.5 shall be an amount equal to the sum of all the following:

23 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
24 year, and, for the 2002 calendar year and each calendar year
25 thereafter, seventy million dollars (\$70,000,000) increased by the
26 percentage, if any, by which the Consumer Price Index for the
27 preceding calendar year exceeds the Consumer Price Index for the
28 2001 calendar year. For the purposes of this paragraph, the term
29 “Consumer Price Index” means the last Consumer Price Index for
30 all urban consumers published by the federal Department of Labor.

31 (2) The unused housing credit ceiling, if any, for the preceding
32 calendar years.

33 (3) The amount of housing credit ceiling returned in the calendar
34 year. For purposes of this paragraph, the amount of housing credit
35 dollar amount returned in the calendar year equals the housing
36 credit dollar amount previously allocated to any project that does
37 not become a qualified low-income housing project within the
38 period required by this section or to any project with respect to
39 which an allocation is canceled by mutual consent of the California
40 Tax Credit Allocation Committee and the allocation recipient.

1 (4) Five hundred thousand dollars (\$500,000) per calendar year
2 for projects to provide farmworker housing, as defined in
3 subdivision (h) of Section 50199.7 of the Health and Safety Code.

4 (5) The amount of any unallocated or returned credits under
5 former Sections 17053.14, 23608.2, and 23608.3, as those sections
6 read prior to January 1, 2009, until fully exhausted for projects to
7 provide farmworker housing, as defined in subdivision (h) of
8 Section 50199.7 of the Health and Safety Code.

9 (h) The term “compliance period” as defined in Section 42(i)(1)
10 of the Internal Revenue Code is modified to mean, with respect to
11 any building, the period of 30 consecutive taxable years beginning
12 with the first taxable year of the credit period with respect thereto.

13 (i) (1) Section 42(j) of the Internal Revenue Code shall not be
14 applicable and the provisions in paragraph (2) shall be substituted
15 in its place.

16 (2) The requirements of this section shall be set forth in a
17 regulatory agreement between the California Tax Credit Allocation
18 Committee and the housing sponsor, which agreement shall be
19 subordinated, when required, to any lien or encumbrance of any
20 banks or other institutional lenders to the project. The regulatory
21 agreement entered into pursuant to subdivision (f) of Section
22 50199.14 of the Health and Safety Code, shall apply, providing
23 the agreement includes all of the following provisions:

24 (A) A term not less than the compliance period.

25 (B) A requirement that the agreement be filed in the official
26 records of the county in which the qualified low-income housing
27 project is located.

28 (C) A provision stating which state and local agencies can
29 enforce the regulatory agreement in the event the housing sponsor
30 fails to satisfy any of the requirements of this section.

31 (D) A provision that the regulatory agreement shall be deemed
32 a contract enforceable by tenants as third-party beneficiaries thereto
33 and which allows individuals, whether prospective, present, or
34 former occupants of the building, who meet the income limitation
35 applicable to the building, the right to enforce the regulatory
36 agreement in any state court.

37 (E) A provision incorporating the requirements of Section 42
38 of the Internal Revenue Code as modified by this section.

39 (F) A requirement that the housing sponsor notify the California
40 Tax Credit Allocation Committee or its designee and the local

1 agency that can enforce the regulatory agreement if there is a
2 determination by the Internal Revenue Service that the project is
3 not in compliance with Section 42(g) of the Internal Revenue Code.

4 (G) A requirement that the housing sponsor, as security for the
5 performance of the housing sponsor's obligations under the
6 regulatory agreement, assign the housing sponsor's interest in rents
7 that it receives from the project, provided that until there is a
8 default under the regulatory agreement, the housing sponsor is
9 entitled to collect and retain the rents.

10 (H) The remedies available in the event of a default under the
11 regulatory agreement that is not cured within a reasonable cure
12 period, include, but are not limited to, allowing any of the parties
13 designated to enforce the regulatory agreement to collect all rents
14 with respect to the project; taking possession of the project and
15 operating the project in accordance with the regulatory agreement
16 until the enforcer determines the housing sponsor is in a position
17 to operate the project in accordance with the regulatory agreement;
18 applying to any court for specific performance; securing the
19 appointment of a receiver to operate the project; or any other relief
20 as may be appropriate.

21 (j) (1) The committee shall allocate the housing credit on a
22 regular basis consisting of two or more periods in each calendar
23 year during which applications may be filed and considered. The
24 committee shall establish application filing deadlines, the maximum
25 percentage of federal and state low-income housing tax credit
26 ceiling which may be allocated by the committee in that period,
27 and the approximate date on which allocations shall be made. If
28 the enactment of federal or state law, the adoption of rules or
29 regulations, or other similar events prevent the use of two allocation
30 periods, the committee may reduce the number of periods and
31 adjust the filing deadlines, maximum percentage of credit allocated,
32 and the allocation dates.

33 (2) The committee shall adopt a qualified allocation plan, as
34 provided in Section 42(m)(1) of the Internal Revenue Code. In
35 adopting this plan, the committee shall comply with the provisions
36 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
37 Code.

38 (3) Notwithstanding Section 42(m) of the Internal Revenue
39 Code, the California Tax Credit Allocation Committee shall

1 allocate housing credits in accordance with the qualified allocation
2 plan and regulations, which shall include the following provisions:

3 (A) All housing sponsors, as defined by paragraph (3) of
4 subdivision (a), shall demonstrate at the time the application is
5 filed with the committee that the project meets the following
6 threshold requirements:

7 (i) The housing sponsor shall demonstrate there is a need and
8 demand for low-income housing in the community or region for
9 which it is proposed.

10 (ii) The project's proposed financing, including tax credit
11 proceeds, shall be sufficient to complete the project and that the
12 proposed operating income shall be adequate to operate the project
13 for the extended use period.

14 (iii) The project shall have enforceable financing commitments,
15 either construction or permanent financing, for at least 50 percent
16 of the total estimated financing of the project.

17 (iv) The housing sponsor shall have and maintain control of the
18 site for the project.

19 (v) The housing sponsor shall demonstrate that the project
20 complies with all applicable local land use and zoning ordinances.

21 (vi) The housing sponsor shall demonstrate that the project
22 development team has the experience and the financial capacity
23 to ensure project completion and operation for the extended use
24 period.

25 (vii) The housing sponsor shall demonstrate the amount of tax
26 credit that is necessary for the financial feasibility of the project
27 and its viability as a qualified low-income housing project
28 throughout the extended use period, taking into account operating
29 expenses, a supportable debt service, reserves, funds set aside for
30 rental subsidies, and required equity, and a development fee that
31 does not exceed a specified percentage of the eligible basis of the
32 project prior to inclusion of the development fee in the eligible
33 basis, as determined by the committee.

34 (B) The committee shall give a preference to those projects
35 satisfying all of the threshold requirements of subparagraph (A)
36 if both of the following apply:

37 (i) The project serves the lowest income tenants at rents
38 affordable to those tenants.

39 (ii) The project is obligated to serve qualified tenants for the
40 longest period.

1 (C) In addition to the provisions of subparagraphs (A) and (B),
2 the committee shall use the following criteria in allocating housing
3 credits:

4 (i) Projects serving large families in which a substantial number,
5 as defined by the committee, of all residential units is comprised
6 of low-income units with three and more bedrooms.

7 (ii) Projects providing single room occupancy units serving very
8 low income tenants.

9 (iii) Existing projects that are “at risk of conversion,” as defined
10 by paragraph (3) of subdivision (c).

11 (iv) Projects for which a public agency provides direct or indirect
12 long-term financial support for at least 15 percent of the total
13 project development costs or projects for which the owner’s equity
14 constitutes at least 30 percent of the total project development
15 costs.

16 (v) Projects that provide tenant amenities not generally available
17 to residents of low-income housing projects.

18 (4) For purposes of allocating credits pursuant to this section,
19 the committee shall not give preference to any project by virtue
20 of the date of submission of its application except to break a tie
21 when two or more of the projects have an equal rating.

22 (k) Section 42(l) of the Internal Revenue Code shall be modified
23 as follows:

24 The term “secretary” shall be replaced by the term “California
25 Franchise Tax Board.”

26 (l) In the case where the state credit allowed under this section
27 exceeds the “tax,” the excess may be carried over to reduce the
28 “tax” in the following year, and succeeding years if necessary,
29 until the credit has been exhausted.

30 (m) The provisions of Section 11407(a) of Public Law 101-508,
31 relating to the effective date of the extension of the low-income
32 housing credit, shall apply to calendar years after 1993.

33 (n) The provisions of Section 11407(c) of Public Law 101-508,
34 relating to election to accelerate credit, shall not apply.

35 (o) This section shall remain in effect for as long as Section 42
36 of the Internal Revenue Code, relating to low-income housing
37 credits, remains in effect.

38 *SEC. 4.5. Section 12206 of the Revenue and Taxation Code is*
39 *amended to read:*

1 12206. (a) (1) There shall be allowed as a credit against the
2 “tax” (as defined by Section 12201) a state low-income housing
3 tax credit in an amount equal to the amount determined in
4 subdivision (c), computed in accordance with Section 42 of the
5 Internal Revenue Code, except as otherwise provided in this
6 section.

7 (2) “Taxpayer,” for purposes of this section, means the sole
8 owner in the case of a “C” corporation, the partners in the case of
9 a partnership, and the shareholders in the case of an “S”
10 corporation.

11 (3) “Housing sponsor,” for purposes of this section, means the
12 sole owner in the case of a “C” corporation, the partnership in the
13 case of a partnership, and the “S” corporation in the case of an “S”
14 corporation.

15 (b) (1) The amount of the credit allocated to any housing
16 sponsor shall be authorized by the California Tax Credit Allocation
17 Committee, or any successor thereof, based on a project’s need
18 for the credit for economic feasibility in accordance with the
19 requirements of this section.

20 (A) ~~The Except for projects to provide farmworker housing, as~~
21 ~~defined in subdivision (h) of Section 50199.7 of the Health and~~
22 ~~Safety Code, that are allocated credits solely under the set aside~~
23 ~~described in subdivision (c) of Section 50199.20 of the Health and~~
24 ~~Safety Code, the low-income housing project shall be located in~~
25 California and shall meet either of the following requirements:

26 (i) The project’s housing sponsor shall have been allocated by
27 the California Tax Credit Allocation Committee a credit for federal
28 income tax purposes under Section 42 of the Internal Revenue
29 Code.

30 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
31 Internal Revenue Code.

32 (B) The California Tax Credit Allocation Committee shall not
33 require fees for the credit under this section in addition to those
34 fees required for applications for the tax credit pursuant to Section
35 42 of the Internal Revenue Code. The committee may require a
36 fee if the application for the credit under this section is submitted
37 in a calendar year after the year the application is submitted for
38 the federal tax credit.

39 (C) (i) *For a project that receives a preliminary reservation of*
40 *the state low-income housing tax credit, allowed pursuant to*

1 *subdivision (a), on or after January 1, 2009, and before January*
2 *1, 2016, the credit shall be allocated to the partners of a*
3 *partnership owning the project in accordance with the partnership*
4 *agreement, regardless of how the federal low-income housing tax*
5 *credit with respect to the project is allocated to the partners, or*
6 *whether the allocation of the credit under the terms of the*
7 *agreement has substantial economic effect, within the meaning of*
8 *Section 704(b) of the Internal Revenue Code.*

9 *(ii) This subparagraph shall cease to be operative with respect*
10 *to any project that receives a preliminary reservation of a credit*
11 *on or after January 1, 2016.*

12 (2) (A) The California Tax Credit Allocation Committee shall
13 certify to the housing sponsor the amount of tax credit under this
14 section allocated to the housing sponsor for each credit period.

15 (B) In the case of a partnership or an “S” corporation, the
16 housing sponsor shall provide a copy of the California Tax Credit
17 Allocation Committee certification to the taxpayer.

18 (C) The taxpayer shall attach a copy of the certification to any
19 return upon which a tax credit is claimed under this section.

20 (D) In the case of a failure to attach a copy of the certification
21 for the year to the return in which a tax credit is claimed under this
22 section, no credit under this section shall be allowed for that year
23 until a copy of that certification is provided.

24 (E) All elections made by the taxpayer pursuant to Section 42
25 of the Internal Revenue Code shall apply to this section.

26 (F) No credit shall be allocated under this section to buildings
27 located in a difficult development area or a qualified census tract
28 as defined in Section 42 of the Internal Revenue Code for which
29 the eligible basis of a new building or the rehabilitation expenditure
30 of an existing building is 130 percent of that amount pursuant to
31 Section 42(d)(5)(C) of the Internal Revenue Code, unless the
32 committee reduces the amount of federal credit, with the approval
33 of the applicant, so that the combined amount of federal and state
34 credit shall not exceed the total credit allowable pursuant to this
35 section and Section 42(b) of the Internal Revenue Code, computed
36 without regard to Section 42(d)(5)(C) of the Internal Revenue
37 Code.

38 (c) Section 42(b) of the Internal Revenue Code shall be modified
39 as follows:

1 (1) In the case of any qualified low-income building that receives
2 an allocation after 1989 and is a new building not federally
3 subsidized, the term “applicable percentage” means the following:

4 (A) For each of the first three years, the percentage prescribed
5 by the Secretary of the Treasury for new buildings that are not
6 federally subsidized for the taxable year, determined in accordance
7 with the requirements of Section 42(b)(2) of the Internal Revenue
8 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)
9 of the Internal Revenue Code.

10 (B) For the fourth year, the difference between 30 percent and
11 the sum of the applicable percentages for the first three years.

12 (2) In the case of any qualified low-income building that receives
13 an allocation after 1989 and that is a new building that is federally
14 subsidized or that is an existing building that is “at risk of
15 conversion,” the term “applicable percentage” means the following:

16 (A) For each of the first three years, the percentage prescribed
17 by the Secretary of the Treasury for new buildings that are federally
18 subsidized for the taxable year.

19 (B) For the fourth year, the difference between 13 percent and
20 the sum of the applicable percentages for the first three years.

21 (3) For purposes of this section, the term “at risk of conversion,”
22 with respect to an existing property means a property that satisfies
23 all of the following criteria:

24 (A) The property is a multifamily rental housing development
25 in which at least 50 percent of the units receive governmental
26 assistance pursuant to any of the following:

27 (i) New construction, substantial rehabilitation, moderate
28 rehabilitation, property disposition, and loan management set-aside
29 programs, or any other program providing project-based assistance
30 pursuant to Section 8 of the United States Housing Act of 1937,
31 Section 1437f of Title 42 of the United States Code, as amended.

32 (ii) The Below-Market-Interest-Rate Program pursuant to
33 Section 221(d)(3) of the National Housing Act, Sections
34 1715l(d)(3) and (5) of Title 12 of the United States Code.

35 (iii) Section 236 of the National Housing Act, Section 1715z-1
36 of Title 12 of the United States Code.

37 (iv) Programs for rent supplement assistance pursuant to Section
38 101 of the Housing and Urban Development Act of 1965, Section
39 1701s of Title 12 of the United States Code, as amended.

1 (v) Programs pursuant to Section 515 of the Housing Act of
2 1949, Section 1485 of Title 42 of the United States Code, as
3 amended.

4 (vi) The low-income housing credit program set forth in Section
5 42 of the Internal Revenue Code.

6 (B) The restrictions on rent and income levels will terminate or
7 the federal insured mortgage on the property is eligible for
8 prepayment ~~anytime~~ *any time* within five years before or after the
9 date of application to the California Tax Credit Allocation
10 Committee.

11 (C) The entity acquiring the property enters into a regulatory
12 agreement that requires the property to be operated in accordance
13 with the requirements of this section for a period equal to the
14 greater of 55 years or the life of the property.

15 (D) The property satisfies the requirements of Section 42(e) of
16 the Internal Revenue Code regarding rehabilitation expenditures,
17 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
18 apply.

19 (d) The term “qualified low-income housing project” as defined
20 in Section 42(c)(2) of the Internal Revenue Code is modified by
21 adding the following requirements:

22 (1) The taxpayer shall be entitled to receive a cash distribution
23 from the operations of the project, after funding required reserves,
24 which, at the election of the taxpayer, is equal to:

25 (A) An amount not to exceed 8 percent of the lesser of:

26 (i) The owner equity which shall include the amount of the
27 capital contributions actually paid to the housing sponsor and shall
28 not include any amounts until they are paid on an investor note.

29 (ii) Twenty percent of the adjusted basis of the building as of
30 the close of the first taxable year of the credit period.

31 (B) The amount of the cashflow from those units in the building
32 that are not low-income units. For purposes of computing cashflow
33 under this subparagraph, operating costs shall be allocated to the
34 low-income units using the “floor space fraction,” as defined in
35 Section 42 of the Internal Revenue Code.

36 (C) Any amount allowed to be distributed under subparagraph
37 (A) that is not available for distribution during the first five years
38 of the compliance period may accumulate and be distributed any
39 time during the first 15 years of the compliance period but not
40 thereafter.

1 (2) The limitation on return shall apply in the aggregate to the
2 partners if the housing sponsor is a partnership and in the aggregate
3 to the shareholders if the housing sponsor is an “S” corporation.

4 (3) The housing sponsor shall apply any cash available for
5 distribution in excess of the amount eligible to be distributed under
6 paragraph (1) to reduce the rent on rent-restricted units or to
7 increase the number of rent-restricted units subject to the tests of
8 Section 42(g)(1) of the Internal Revenue Code.

9 (e) The provisions of Section 42(f) of the Internal Revenue Code
10 shall be modified as follows:

11 (1) The term “credit period” as defined in Section 42(f)(1) of
12 the Internal Revenue Code is modified by substituting “four taxable
13 years” for “10 taxable years.”

14 (2) The special rule for the first taxable year of the credit period
15 under Section 42(f)(2) of the Internal Revenue Code shall not apply
16 to the tax credit under this section.

17 (3) Section 42(f)(3) of the Internal Revenue Code is modified
18 to read:

19 If, as of the close of any taxable year in the compliance period,
20 after the first year of the credit period, the qualified basis of any
21 building exceeds the qualified basis of that building as of the close
22 of the first year of the credit period, the housing sponsor, to the
23 extent of its tax credit allocation, shall be eligible for a credit on
24 the excess in an amount equal to the applicable percentage
25 determined pursuant to subdivision (c) for the four-year period
26 beginning with the later of the taxable years in which the increase
27 in qualified basis occurs.

28 (f) The provisions of Section 42(h) of the Internal Revenue
29 Code shall be modified as follows:

30 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
31 applicable and instead the following provisions shall be applicable:

32 The total amount for the four-year credit period of the housing
33 credit dollars allocated in a calendar year to any building shall
34 reduce the aggregate housing credit dollar amount of the California
35 Tax Credit Allocation Committee for the calendar year in which
36 the allocation is made.

37 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
38 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
39 not be applicable.

(g) The aggregate housing credit dollar amount that may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 17058, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) *Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.*

(5) *The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.*

(h) The term “compliance period” as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to any building, the period of 30 consecutive taxable years beginning with the first taxable year of the credit period with respect thereto.

(i) (1) Section 42(j) of the Internal Revenue Code shall not be applicable and the provisions in paragraph (2) shall be substituted in its place.

(2) The requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be

1 subordinated, when required, to any lien or encumbrance of any
2 banks or other institutional lenders to the project. The regulatory
3 agreement entered into pursuant to subdivision (f) of Section
4 50199.14 of the Health and Safety Code, shall apply, providing
5 the agreement includes all of the following provisions:

6 (A) A term not less than the compliance period.

7 (B) A requirement that the agreement be filed in the official
8 records of the county in which the qualified low-income housing
9 project is located.

10 (C) A provision stating which state and local agencies can
11 enforce the regulatory agreement in the event the housing sponsor
12 fails to satisfy any of the requirements of this section.

13 (D) A provision that the regulatory agreement shall be deemed
14 a contract enforceable by tenants as third-party beneficiaries thereto
15 and which allows individuals, whether prospective, present, or
16 former occupants of the building, who meet the income limitation
17 applicable to the building, the right to enforce the regulatory
18 agreement in any state court.

19 (E) A provision incorporating the requirements of Section 42
20 of the Internal Revenue Code as modified by this section.

21 (F) A requirement that the housing sponsor notify the California
22 Tax Credit Allocation Committee or its designee and the local
23 agency that can enforce the regulatory agreement if there is a
24 determination by the Internal Revenue Service that the project is
25 not in compliance with Section 42(g) of the Internal Revenue Code.

26 (G) A requirement that the housing sponsor, as security for the
27 performance of the housing sponsor's obligations under the
28 regulatory agreement, assign the housing sponsor's interest in rents
29 that it receives from the project, provided that until there is a
30 default under the regulatory agreement, the housing sponsor is
31 entitled to collect and retain the rents.

32 (H) The remedies available in the event of a default under the
33 regulatory agreement that is not cured within a reasonable cure
34 period, include, but are not limited to, allowing any of the parties
35 designated to enforce the regulatory agreement to collect all rents
36 with respect to the project; taking possession of the project and
37 operating the project in accordance with the regulatory agreement
38 until the enforcer determines the housing sponsor is in a position
39 to operate the project in accordance with the regulatory agreement;
40 applying to any court for specific performance; securing the

1 appointment of a receiver to operate the project; or any other relief
2 as may be appropriate.

3 (j) (1) The committee shall allocate the housing credit on a
4 regular basis consisting of two or more periods in each calendar
5 year during which applications may be filed and considered. The
6 committee shall establish application filing deadlines, the maximum
7 percentage of federal and state low-income housing tax credit
8 ceiling which may be allocated by the committee in that period,
9 and the approximate date on which allocations shall be made. If
10 the enactment of federal or state law, the adoption of rules or
11 regulations, or other similar events prevent the use of two allocation
12 periods, the committee may reduce the number of periods and
13 adjust the filing deadlines, maximum percentage of credit allocated,
14 and the allocation dates.

15 (2) The committee shall adopt a qualified allocation plan, as
16 provided in Section 42(m)(1) of the Internal Revenue Code. In
17 adopting this plan, the committee shall comply with the provisions
18 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
19 Code.

20 (3) Notwithstanding Section 42(m) of the Internal Revenue
21 Code, the California Tax Credit Allocation Committee shall
22 allocate housing credits in accordance with the qualified allocation
23 plan and regulations, which shall include the following provisions:

24 (A) All housing sponsors, as defined by paragraph (3) of
25 subdivision (a), shall demonstrate at the time the application is
26 filed with the committee that the project meets the following
27 threshold requirements:

28 (i) The housing sponsor shall demonstrate there is a need and
29 demand for low-income housing in the community or region for
30 which it is proposed.

31 (ii) The project's proposed financing, including tax credit
32 proceeds, shall be sufficient to complete the project and that the
33 proposed operating income shall be adequate to operate the project
34 for the extended use period.

35 (iii) The project shall have enforceable financing commitments,
36 either construction or permanent financing, for at least 50 percent
37 of the total estimated financing of the project.

38 (iv) The housing sponsor shall have and maintain control of the
39 site for the project.

1 (v) The housing sponsor shall demonstrate that the project
2 complies with all applicable local land use and zoning ordinances.

3 (vi) The housing sponsor shall demonstrate that the project
4 development team has the experience and the financial capacity
5 to ensure project completion and operation for the extended use
6 period.

7 (vii) The housing sponsor shall demonstrate the amount of tax
8 credit that is necessary for the financial feasibility of the project
9 and its viability as a qualified low-income housing project
10 throughout the extended use period, taking into account operating
11 expenses, a supportable debt service, reserves, funds set aside for
12 rental subsidies, and required equity, and a development fee that
13 does not exceed a specified percentage of the eligible basis of the
14 project prior to inclusion of the development fee in the eligible
15 basis, as determined by the committee.

16 (B) The committee shall give a preference to those projects
17 satisfying all of the threshold requirements of subparagraph (A)
18 if both of the following apply:

19 (i) The project serves the lowest income tenants at rents
20 affordable to those tenants.

21 (ii) The project is obligated to serve qualified tenants for the
22 longest period.

23 (C) In addition to the provisions of subparagraphs (A) and (B),
24 the committee shall use the following criteria in allocating housing
25 credits:

26 (i) Projects serving large families in which a substantial number,
27 as defined by the committee, of all residential units is comprised
28 of low-income units with three and more bedrooms.

29 (ii) Projects providing single room occupancy units serving very
30 low income tenants.

31 (iii) Existing projects that are “at risk of conversion,” as defined
32 by paragraph (3) of subdivision (c).

33 (iv) Projects for which a public agency provides direct or indirect
34 long-term financial support for at least 15 percent of the total
35 project development costs or projects for which the owner’s equity
36 constitutes at least 30 percent of the total project development
37 costs.

38 (v) Projects that provide tenant amenities not generally available
39 to residents of low-income housing projects.

(4) For purposes of allocating credits pursuant to this section, the committee shall not give preference to any project by virtue of the date of submission of its application except to break a tie when two or more of the projects have an equal rating.

(k) Section 42(l) of the Internal Revenue Code shall be modified as follows:

The term “secretary” shall be replaced by the term “California Franchise Tax Board.”

(l) In the case where the state credit allowed under this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1993.

(n) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(o) This section shall remain in effect for as long as Section 42 of the Internal Revenue Code, relating to low-income housing credits, remains in effect.

SEC. 5. Section 17053.14 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) “Taxpayer” for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an “S” corporation.

(3) “Housing sponsor” for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the “S” corporation in the case of an “S” corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project’s need

1 for the credit for economic feasibility in accordance with the
2 requirements of this section.

3 (A) The low-income housing project shall be located in
4 California and shall meet either of the following requirements:

5 (i) Except for projects to provide farmworker housing, as defined
6 in subdivision (h) of Section 50199.7 of the Health and Safety
7 Code, that are allocated credits solely under the set-aside described
8 in subdivision (c) of Section 50199.20 of the Health and Safety
9 Code, the project's housing sponsor shall have been allocated by
10 the California Tax Credit Allocation Committee a credit for federal
11 income tax purposes under Section 42 of the Internal Revenue
12 Code.

13 (ii) It shall qualify for a credit under Section 42(h)(4)(B) of the
14 Internal Revenue Code.

15 (B) The California Tax Credit Allocation Committee shall not
16 require fees for the credit under this section in addition to those
17 fees required for applications for the tax credit pursuant to Section
18 42 of the Internal Revenue Code. The committee may require a
19 fee if the application for the credit under this section is submitted
20 in a calendar year after the year the application is submitted for
21 the federal tax credit.

22 (2) (A) The California Tax Credit Allocation Committee shall
23 certify to the housing sponsor the amount of tax credit under this
24 section allocated to the housing sponsor for each credit period.

25 (B) In the case of a partnership or an "S" corporation, the
26 housing sponsor shall provide a copy of the California Tax Credit
27 Allocation Committee certification to the taxpayer.

28 (C) The taxpayer shall, upon request, provide a copy of the
29 certification to the Franchise Tax Board.

30 (D) All elections made by the taxpayer pursuant to Section 42
31 of the Internal Revenue Code shall apply to this section.

32 (E) For buildings located in designated difficult development
33 areas or qualified census tracts as defined in Section 42(d)(5)(C)
34 of the Internal Revenue Code, credits may be allocated under this
35 section in the amounts prescribed in subdivision (c), provided that
36 the amount of credit allocated under Section 42 of the Internal
37 Revenue Code is computed on 100 percent of the qualified basis
38 of the building.

39 (c) Section 42(b) of the Internal Revenue Code shall be modified
40 as follows:

(1) In the case of any qualified low-income building placed in service by the housing sponsor during 1987, the term “applicable percentage” means 9 percent for each of the first three years and 3 percent for the fourth year for new buildings (whether or not the building is federally subsidized) and for existing buildings.

(2) In the case of any qualified low-income building that receives an allocation after 1989 and is a new building not federally subsidized, the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are not federally subsidized for the taxable year, determined in accordance with the requirements of Section 42(b)(2) of the Internal Revenue Code, in lieu of the percentage prescribed in Section 42(b)(1)(A) of the Internal Revenue Code.

(B) For the fourth year, the difference between 30 percent and the sum of the applicable percentages for the first three years.

(3) In the case of any qualified low-income building that receives an allocation after 1989 and that is a new building that is federally subsidized or that is an existing building that is “at risk of conversion,” the term “applicable percentage” means the following:

(A) For each of the first three years, the percentage prescribed by the Secretary of the Treasury for new buildings that are federally subsidized for the taxable year.

(B) For the fourth year, the difference between 13 percent and the sum of the applicable percentages for the first three years.

(4) For purposes of this section, the term “at risk of conversion,” with respect to an existing property means a property that satisfies all of the following criteria:

(A) The property is a multifamily rental housing development in which at least 50 percent of the units receive governmental assistance pursuant to any of the following:

(i) New construction, substantial rehabilitation, moderate rehabilitation, property disposition, and loan management set-aside programs, or any other program providing project-based assistance pursuant to Section 8 of the United States Housing Act of 1937, Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

1 (iii) Section 236 of the National Housing Act, Section 1715z-1
2 of Title 12 of the United States Code.

3 (iv) Programs for rent supplement assistance pursuant to Section
4 101 of the Housing and Urban Development Act of 1965, Section
5 1701s of Title 12 of the United States Code, as amended.

6 (v) Programs pursuant to Section 515 of the Housing Act of
7 1949, Section 1485 of Title 42 of the United States Code, as
8 amended.

9 (vi) The low-income housing credit program set forth in Section
10 42 of the Internal Revenue Code.

11 (B) The restrictions on rent and income levels will terminate or
12 the federal insured mortgage on the property is eligible for
13 prepayment anytime within five years before or after the date of
14 application to the California Tax Credit Allocation Committee.

15 (C) The entity acquiring the property enters into a regulatory
16 agreement that requires the property to be operated in accordance
17 with the requirements of this section for a period equal to the
18 greater of 55 years or the life of the property.

19 (D) The property satisfies the requirements of Section 42(e) of
20 the Internal Revenue Code regarding rehabilitation expenditures,
21 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
22 apply.

23 (d) The term “qualified low-income housing project” as defined
24 in Section 42(c)(2) of the Internal Revenue Code is modified by
25 adding the following requirements:

26 (1) The taxpayer shall be entitled to receive a cash distribution
27 from the operations of the project, after funding required reserves,
28 that, at the election of the taxpayer, is equal to:

29 (A) An amount not to exceed 8 percent of the lesser of:

30 (i) The owner equity that shall include the amount of the capital
31 contributions actually paid to the housing sponsor and shall not
32 include any amounts until they are paid on an investor note.

33 (ii) Twenty percent of the adjusted basis of the building as of
34 the close of the first taxable year of the credit period.

35 (B) The amount of the cashflow from those units in the building
36 that are not low-income units. For purposes of computing cashflow
37 under this subparagraph, operating costs shall be allocated to the
38 low-income units using the “floor space fraction,” as defined in
39 Section 42 of the Internal Revenue Code.

1 (C) Any amount allowed to be distributed under subparagraph
2 (A) that is not available for distribution during the first five years
3 of the compliance period may be accumulated and distributed any
4 time during the first 15 years of the compliance period but not
5 thereafter.

6 (2) The limitation on return shall apply in the aggregate to the
7 partners if the housing sponsor is a partnership and in the aggregate
8 to the shareholders if the housing sponsor is an “S” corporation.

9 (3) The housing sponsor shall apply any cash available for
10 distribution in excess of the amount eligible to be distributed under
11 paragraph (1) to reduce the rent on rent-restricted units or to
12 increase the number of rent-restricted units subject to the tests of
13 Section 42(g)(1) of the Internal Revenue Code.

14 (e) The provisions of Section 42(f) of the Internal Revenue Code
15 shall be modified as follows:

16 (1) The term “credit period” as defined in Section 42(f)(1) of
17 the Internal Revenue Code is modified by substituting “four taxable
18 years” for “10 taxable years.”

19 (2) The special rule for the first taxable year of the credit period
20 under Section 42(f)(2) of the Internal Revenue Code shall not apply
21 to the tax credit under this section.

22 (3) Section 42(f)(3) of the Internal Revenue Code is modified
23 to read:

24 If, as of the close of any taxable year in the compliance period,
25 after the first year of the credit period, the qualified basis of any
26 building exceeds the qualified basis of that building as of the close
27 of the first year of the credit period, the housing sponsor, to the
28 extent of its tax credit allocation, shall be eligible for a credit on
29 the excess in an amount equal to the applicable percentage
30 determined pursuant to subdivision (c) for the four-year period
31 beginning with the taxable year in which the increase in qualified
32 basis occurs.

33 (f) The provisions of Section 42(h) of the Internal Revenue
34 Code shall be modified as follows:

35 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
36 applicable and instead the following provisions shall be applicable:

37 The total amount for the four-year period of the housing credit
38 dollars allocated in a calendar year to any building shall reduce
39 the aggregate housing credit dollar amount of the California Tax

1 Credit Allocation Committee for the calendar year in which the
2 allocation is made.

3 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
4 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
5 not be applicable to this section.

6 (g) The aggregate housing credit dollar amount which may be
7 allocated annually by the California Tax Credit Allocation
8 Committee pursuant to this section, Section 12206, and Section
9 23610.5 shall be an amount equal to the sum of all the following:

10 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
11 year, and, for the 2002 calendar year and each calendar year
12 thereafter, seventy million dollars (\$70,000,000) increased by the
13 percentage, if any, by which the Consumer Price Index for the
14 preceding calendar year exceeds the Consumer Price Index for the
15 2001 calendar year. For the purposes of this paragraph, the term
16 “Consumer Price Index” means the last Consumer Price Index for
17 all urban consumers published by the federal Department of Labor.

18 (2) The unused housing credit ceiling, if any, for the preceding
19 calendar years.

20 (3) The amount of housing credit ceiling returned in the calendar
21 year. For purposes of this paragraph, the amount of housing credit
22 dollar amount returned in the calendar year equals the housing
23 credit dollar amount previously allocated to any project that does
24 not become a qualified low-income housing project within the
25 period required by this section or to any project with respect to
26 which an allocation is canceled by mutual consent of the California
27 Tax Credit Allocation Committee and the allocation recipient.

28 (4) Five hundred thousand dollars (\$500,000) per calendar year
29 for projects to provide farmworker housing, as defined in
30 subdivision (h) of Section 50199.7 of the Health and Safety Code.

31 (5) The amount of any unallocated or returned credits under
32 former Sections 17053.14, 23608.2, and 23608.3, as those sections
33 read prior to January 1, 2009, until fully exhausted for projects to
34 provide farmworker housing, as defined in subdivision (h) of
35 Section 50199.7 of the Health and Safety Code.

36 (h) The term “compliance period” as defined in Section 42(i)(1)
37 of the Internal Revenue Code is modified to mean, with respect to
38 any building, the period of 30 consecutive taxable years beginning
39 with the first taxable year of the credit period with respect thereto.

(i) Section 42(j) of the Internal Revenue Code shall not be applicable and the following requirements of this section shall be set forth in a regulatory agreement between the California Tax Credit Allocation Committee and the housing sponsor, which agreement shall be subordinated, when required, to any lien or encumbrance of any banks or other institutional lenders to the project. The regulatory agreement entered into pursuant to subdivision (f) of Section 50199.14 of the Health and Safety Code shall apply, providing the agreement includes all of the following provisions:

(1) A term not less than the compliance period.

(2) A requirement that the agreement be filed in the official records of the county in which the qualified low-income housing project is located.

(3) A provision stating which state and local agencies can enforce the regulatory agreement in the event the housing sponsor fails to satisfy any of the requirements of this section.

(4) A provision that the regulatory agreement shall be deemed a contract enforceable by tenants as third-party beneficiaries thereto and which allows individuals, whether prospective, present, or former occupants of the building, who meet the income limitation applicable to the building, the right to enforce the regulatory agreement in any state court.

(5) A provision incorporating the requirements of Section 42 of the Internal Revenue Code as modified by this section.

(6) A requirement that the housing sponsor notify the California Tax Credit Allocation Committee or its designee if there is a determination by the Internal Revenue Service that the project is not in compliance with Section 42(g) of the Internal Revenue Code.

(7) A requirement that the housing sponsor, as security for the performance of the housing sponsor's obligations under the regulatory agreement, assign the housing sponsor's interest in rents that it receives from the project, provided that until there is a default under the regulatory agreement, the housing sponsor is entitled to collect and retain the rents.

(8) The remedies available in the event of a default under the regulatory agreement that is not cured within a reasonable cure period, include, but are not limited to, allowing any of the parties designated to enforce the regulatory agreement to collect all rents with respect to the project; taking possession of the project and

1 operating the project in accordance with the regulatory agreement
2 until the enforcer determines the housing sponsor is in a position
3 to operate the project in accordance with the regulatory agreement;
4 applying to any court for specific performance; securing the
5 appointment of a receiver to operate the project; or any other relief
6 as may be appropriate.

7 (j) (1) The committee shall allocate the housing credit on a
8 regular basis consisting of two or more periods in each calendar
9 year during which applications may be filed and considered. The
10 committee shall establish application filing deadlines, the maximum
11 percentage of federal and state low-income housing tax credit
12 ceiling that may be allocated by the committee in that period, and
13 the approximate date on which allocations shall be made. If the
14 enactment of federal or state law, the adoption of rules or
15 regulations or other similar events prevent the use of two allocation
16 periods, the committee may reduce the number of periods and
17 adjust the filing deadlines, maximum percentage of credit allocated,
18 and the allocation dates.

19 (2) The committee shall adopt a qualified allocation plan, as
20 provided in Section 42(m)(1) of the Internal Revenue Code. In
21 adopting this plan, the committee shall comply with the provisions
22 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
23 Code.

24 (3) Notwithstanding Section 42(m) of the Internal Revenue
25 Code, the California Tax Credit Allocation Committee shall
26 allocate housing credits in accordance with the qualified allocation
27 plan and regulations, which shall include the following provisions:

28 (A) All housing sponsors, as defined by paragraph (3) of
29 subdivision (a), shall demonstrate at the time the application is
30 filed with the committee that the project meets the following
31 threshold requirements:

32 (i) The housing sponsor shall demonstrate there is a need and
33 demand for low-income housing in the community or region for
34 which it is proposed.

35 (ii) The project's proposed financing, including tax credit
36 proceeds, shall be sufficient to complete the project and that the
37 proposed operating income shall be adequate to operate the project
38 for the extended use period.

1 (iii) The project shall have enforceable financing commitments,
2 either construction or permanent financing, for at least 50 percent
3 of the total estimated financing of the project.

4 (iv) The housing sponsor shall have and maintain control of the
5 site for the project.

6 (v) The housing sponsor shall demonstrate that the project
7 complies with all applicable local land use and zoning ordinances.

8 (vi) The housing sponsor shall demonstrate that the project
9 development team has the experience and the financial capacity
10 to ensure project completion and operation for the extended use
11 period.

12 (vii) The housing sponsor shall demonstrate the amount of tax
13 credit that is necessary for the financial feasibility of the project
14 and its viability as a qualified low-income housing project
15 throughout the extended use period, taking into account operating
16 expenses, a supportable debt service, reserves, funds set aside for
17 rental subsidies, and required equity, and a development fee that
18 does not exceed a specified percentage of the eligible basis of the
19 project prior to inclusion of the development fee in the eligible
20 basis, as determined by the committee.

21 (B) The committee shall give a preference to those projects
22 satisfying all of the threshold requirements of subparagraph (A)
23 if both of the following apply:

24 (i) The project serves the lowest income tenants at rents
25 affordable to those tenants.

26 (ii) The project is obligated to serve qualified tenants for the
27 longest period.

28 (C) In addition to the provisions of subparagraphs (A) and (B),
29 the committee shall use the following criteria in allocating housing
30 credits:

31 (i) Projects serving large families in which a substantial number,
32 as defined by the committee of all residential units is comprised
33 of low-income units with three and more bedrooms.

34 (ii) Projects providing single room occupancy units serving very
35 low income tenants.

36 (iii) Existing projects that are “at risk of conversion,” as defined
37 by paragraph (4) of subdivision (c).

38 (iv) Projects for which a public agency provides direct or indirect
39 long-term financial support for at least 15 percent of the total
40 project development costs or projects for which the owner’s equity

1 constitutes at least 30 percent of the total project development
2 costs.

3 (v) Projects that provide tenant amenities not generally available
4 to residents of low-income housing projects.

5 (4) For purposes of allocating credits pursuant to this section,
6 the committee shall not give preference to any project by virtue
7 of the date of submission of its application.

8 (k) Section 42(l) of the Internal Revenue Code shall be modified
9 as follows:

10 The term “secretary” shall be replaced by the term “California
11 Franchise Tax Board.”

12 (l) In the case where the credit allowed under this section
13 exceeds the net tax, the excess credit may be carried over to reduce
14 the net tax in the following year, and succeeding taxable years, if
15 necessary, until the credit has been exhausted.

16 (m) A project that received an allocation of a 1989 federal
17 housing credit dollar amount shall be eligible to receive an
18 allocation of a 1990 state housing credit dollar amount, subject to
19 all of the following conditions:

20 (1) The project was not placed in service prior to 1990.

21 (2) To the extent the amendments made to this section by the
22 Statutes of 1990 conflict with any provisions existing in this section
23 prior to those amendments, the prior provisions of law shall prevail.

24 (3) Notwithstanding paragraph (2), a project applying for an
25 allocation under this subdivision shall be subject to the
26 requirements of paragraph (3) of subdivision (j).

27 (n) The credit period with respect to an allocation of credit in
28 1989 by the California Tax Credit Allocation Committee of which
29 any amount is attributable to unallocated credit from 1987 or 1988
30 shall not begin until after December 31, 1989.

31 (o) The provisions of Section 11407(a) of Public Law 101-508,
32 relating to the effective date of the extension of the low-income
33 housing credit, shall apply to calendar years after 1989.

34 (p) The provisions of Section 11407(c) of Public Law 101-508,
35 relating to election to accelerate credit, shall not apply.

36 (q) Any unused credit may continue to be carried forward, as
37 provided in subdivision (l), until the credit has been exhausted.

38 This section shall remain in effect on and after December 1,
39 1990, for as long as Section 42 of the Internal Revenue Code,
40 relating to low-income housing credits, remains in effect.

(r) The amendments to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994.

SEC. 6.5. Section 17058 of the Revenue and Taxation Code is amended to read:

17058. (a) (1) There shall be allowed as a credit against the amount of net tax (as defined in Section 17039) a state low-income housing credit in an amount equal to the amount determined in subdivision (c), computed in accordance with the provisions of Section 42 of the Internal Revenue Code, except as otherwise provided in this section.

(2) "Taxpayer" for purposes of this section means the sole owner in the case of an individual, the partners in the case of a partnership, and the shareholders in the case of an "S" corporation.

(3) "Housing sponsor" for purposes of this section means the sole owner in the case of an individual, the partnership in the case of a partnership, and the "S" corporation in the case of an "S" corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project's need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) ~~The Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the~~ project's housing sponsor shall have been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It shall qualify for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

(B) The California Tax Credit Allocation Committee shall not require fees for the credit under this section in addition to those fees required for applications for the tax credit pursuant to Section 42 of the Internal Revenue Code. The committee may require a fee if the application for the credit under this section is submitted

1 in a calendar year after the year the application is submitted for
2 the federal tax credit.

3 (C) (i) *For a project that receives a preliminary reservation of*
4 *the state low-income housing tax credit, allowed pursuant to*
5 *subdivision (a), on or after January 1, 2009, and before January*
6 *1, 2016, the credit shall be allocated to the partners of a*
7 *partnership owning the project in accordance with the partnership*
8 *agreement, regardless of how the federal low-income housing tax*
9 *credit with respect to the project is allocated to the partners, or*
10 *whether the allocation of the credit under the terms of the*
11 *agreement has substantial economic effect, within the meaning of*
12 *Section 704(b) of the Internal Revenue Code.*

13 (ii) *To the extent the allocation of the credit to a partner under*
14 *this section lacks substantial economic effect, any loss or deduction*
15 *otherwise allowable under this part that is attributable to the sale*
16 *or other disposition of that partner's partnership interest made*
17 *prior to the expiration of the federal credit shall not be allowed*
18 *in the taxable year in which the sale or other disposition occurs,*
19 *but shall instead be deferred until and treated as if it occurred in*
20 *the first taxable year immediately following the taxable year in*
21 *which the federal credit period expires for the project described*
22 *in clause (i).*

23 (iii) *This subparagraph shall cease to be operative with respect*
24 *to any project that receives a preliminary reservation of a credit*
25 *on or after January 1, 2016.*

26 (2) (A) The California Tax Credit Allocation Committee shall
27 certify to the housing sponsor the amount of tax credit under this
28 section allocated to the housing sponsor for each credit period.

29 (B) In the case of a partnership or an "S" corporation, the
30 housing sponsor shall provide a copy of the California Tax Credit
31 Allocation Committee certification to the taxpayer.

32 (C) The taxpayer shall, upon request, provide a copy of the
33 certification to the Franchise Tax Board.

34 (D) All elections made by the taxpayer pursuant to Section 42
35 of the Internal Revenue Code shall apply to this section.

36 (E) For buildings located in designated difficult development
37 areas or qualified census tracts as defined in Section 42(d)(5)(C)
38 of the Internal Revenue Code, credits may be allocated under this
39 section in the amounts prescribed in subdivision (c), provided that
40 the amount of credit allocated under Section 42 of the Internal

1 Revenue Code is computed on 100 percent of the qualified basis
2 of the building.

3 (c) Section 42(b) of the Internal Revenue Code shall be modified
4 as follows:

5 (1) In the case of any qualified low-income building placed in
6 service by the housing sponsor during 1987, the term “applicable
7 percentage” means 9 percent for each of the first three years and
8 3 percent for the fourth year for new buildings (whether or not the
9 building is federally subsidized) and for existing buildings.

10 (2) In the case of any qualified low-income building that receives
11 an allocation after 1989 and is a new building not federally
12 subsidized, the term “applicable percentage” means the following:

13 (A) For each of the first three years, the percentage prescribed
14 by the Secretary of the Treasury for new buildings that are not
15 federally subsidized for the taxable year, determined in accordance
16 with the requirements of Section 42(b)(2) of the Internal Revenue
17 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A)
18 of the Internal Revenue Code.

19 (B) For the fourth year, the difference between 30 percent and
20 the sum of the applicable percentages for the first three years.

21 (3) In the case of any qualified low-income building that receives
22 an allocation after 1989 and that is a new building that is federally
23 subsidized or that is an existing building that is “at risk of
24 conversion,” the term “applicable percentage” means the following:

25 (A) For each of the first three years, the percentage prescribed
26 by the Secretary of the Treasury for new buildings that are federally
27 subsidized for the taxable year.

28 (B) For the fourth year, the difference between 13 percent and
29 the sum of the applicable percentages for the first three years.

30 (4) For purposes of this section, the term “at risk of conversion,”
31 with respect to an existing property means a property that satisfies
32 all of the following criteria:

33 (A) The property is a multifamily rental housing development
34 in which at least 50 percent of the units receive governmental
35 assistance pursuant to any of the following:

36 (i) New construction, substantial rehabilitation, moderate
37 rehabilitation, property disposition, and loan management set-aside
38 programs, or any other program providing project-based assistance
39 pursuant to Section 8 of the United States Housing Act of 1937,
40 Section 1437f of Title 42 of the United States Code, as amended.

(ii) The Below-Market-Interest-Rate Program pursuant to Section 221(d)(3) of the National Housing Act, Sections 1715l(d)(3) and (5) of Title 12 of the United States Code.

(iii) Section 236 of the National Housing Act, Section 1715z-1 of Title 12 of the United States Code.

(iv) Programs for rent supplement assistance pursuant to Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of Title 12 of the United States Code, as amended.

(v) Programs pursuant to Section 515 of the Housing Act of 1949, Section 1485 of Title 42 of the United States Code, as amended.

(vi) The low-income housing credit program set forth in Section 42 of the Internal Revenue Code.

(B) The restrictions on rent and income levels will terminate or the federal insured mortgage on the property is eligible for prepayment ~~anytime~~ *any time* within five years before or after the date of application to the California Tax Credit Allocation Committee.

(C) The entity acquiring the property enters into a regulatory agreement that requires the property to be operated in accordance with the requirements of this section for a period equal to the greater of 55 years or the life of the property.

(D) The property satisfies the requirements of Section 42(e) of the Internal Revenue Code regarding rehabilitation expenditures, except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not apply.

(d) The term “qualified low-income housing project” as defined in Section 42(c)(2) of the Internal Revenue Code is modified by adding the following requirements:

(1) The taxpayer shall be entitled to receive a cash distribution from the operations of the project, after funding required reserves, that, at the election of the taxpayer, is equal to:

(A) An amount not to exceed 8 percent of the lesser of:

(i) The owner equity that shall include the amount of the capital contributions actually paid to the housing sponsor and shall not include any amounts until they are paid on an investor note.

(ii) Twenty percent of the adjusted basis of the building as of the close of the first taxable year of the credit period.

(B) The amount of the cashflow from those units in the building that are not low-income units. For purposes of computing cashflow

1 under this subparagraph, operating costs shall be allocated to the
2 low-income units using the “floor space fraction,” as defined in
3 Section 42 of the Internal Revenue Code.

4 (C) Any amount allowed to be distributed under subparagraph
5 (A) that is not available for distribution during the first five years
6 of the compliance period may be accumulated and distributed any
7 time during the first 15 years of the compliance period but not
8 thereafter.

9 (2) The limitation on return shall apply in the aggregate to the
10 partners if the housing sponsor is a partnership and in the aggregate
11 to the shareholders if the housing sponsor is an “S” corporation.

12 (3) The housing sponsor shall apply any cash available for
13 distribution in excess of the amount eligible to be distributed under
14 paragraph (1) to reduce the rent on rent-restricted units or to
15 increase the number of rent-restricted units subject to the tests of
16 Section 42(g)(1) of the Internal Revenue Code.

17 (e) The provisions of Section 42(f) of the Internal Revenue Code
18 shall be modified as follows:

19 (1) The term “credit period” as defined in Section 42(f)(1) of
20 the Internal Revenue Code is modified by substituting “four taxable
21 years” for “10 taxable years.”

22 (2) The special rule for the first taxable year of the credit period
23 under Section 42(f)(2) of the Internal Revenue Code shall not apply
24 to the tax credit under this section.

25 (3) Section 42(f)(3) of the Internal Revenue Code is modified
26 to read:

27 If, as of the close of any taxable year in the compliance period,
28 after the first year of the credit period, the qualified basis of any
29 building exceeds the qualified basis of that building as of the close
30 of the first year of the credit period, the housing sponsor, to the
31 extent of its tax credit allocation, shall be eligible for a credit on
32 the excess in an amount equal to the applicable percentage
33 determined pursuant to subdivision (c) for the four-year period
34 beginning with the taxable year in which the increase in qualified
35 basis occurs.

36 (f) The provisions of Section 42(h) of the Internal Revenue
37 Code shall be modified as follows:

38 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
39 applicable and instead the following provisions shall be applicable:

The total amount for the four-year period of the housing credit dollars allocated in a calendar year to any building shall reduce the aggregate housing credit dollar amount of the California Tax Credit Allocation Committee for the calendar year in which the allocation is made.

(2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I), (7), and (8) of Section 42(h) of the Internal Revenue Code shall not be applicable to this section.

(g) The aggregate housing credit dollar amount which may be allocated annually by the California Tax Credit Allocation Committee pursuant to this section, Section 12206, and Section 23610.5 shall be an amount equal to the sum of all the following:

(1) Seventy million dollars (\$70,000,000) for the 2001 calendar year, and, for the 2002 calendar year and each calendar year thereafter, seventy million dollars (\$70,000,000) increased by the percentage, if any, by which the Consumer Price Index for the preceding calendar year exceeds the Consumer Price Index for the 2001 calendar year. For the purposes of this paragraph, the term “Consumer Price Index” means the last Consumer Price Index for all urban consumers published by the federal Department of Labor.

(2) The unused housing credit ceiling, if any, for the preceding calendar years.

(3) The amount of housing credit ceiling returned in the calendar year. For purposes of this paragraph, the amount of housing credit dollar amount returned in the calendar year equals the housing credit dollar amount previously allocated to any project that does not become a qualified low-income housing project within the period required by this section or to any project with respect to which an allocation is canceled by mutual consent of the California Tax Credit Allocation Committee and the allocation recipient.

(4) *Five hundred thousand dollars (\$500,000) per calendar year for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.*

(5) *The amount of any unallocated or returned credits under former Sections 17053.14, 23608.2, and 23608.3, as those sections read prior to January 1, 2009, until fully exhausted for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.*

(h) The term “compliance period” as defined in Section 42(i)(1) of the Internal Revenue Code is modified to mean, with respect to

1 any building, the period of 30 consecutive taxable years beginning
2 with the first taxable year of the credit period with respect thereto.

3 (i) Section 42(j) of the Internal Revenue Code shall not be
4 applicable and the following requirements of this section shall be
5 set forth in a regulatory agreement between the California Tax
6 Credit Allocation Committee and the housing sponsor, which
7 agreement shall be subordinated, when required, to any lien or
8 encumbrance of any banks or other institutional lenders to the
9 project. The regulatory agreement entered into pursuant to
10 subdivision (f) of Section 50199.14 of the Health and Safety Code
11 shall apply, providing the agreement includes all of the following
12 provisions:

13 (1) A term not less than the compliance period.

14 (2) A requirement that the agreement be filed in the official
15 records of the county in which the qualified low-income housing
16 project is located.

17 (3) A provision stating which state and local agencies can
18 enforce the regulatory agreement in the event the housing sponsor
19 fails to satisfy any of the requirements of this section.

20 (4) A provision that the regulatory agreement shall be deemed
21 a contract enforceable by tenants as third-party beneficiaries thereto
22 and which allows individuals, whether prospective, present, or
23 former occupants of the building, who meet the income limitation
24 applicable to the building, the right to enforce the regulatory
25 agreement in any state court.

26 (5) A provision incorporating the requirements of Section 42
27 of the Internal Revenue Code as modified by this section.

28 (6) A requirement that the housing sponsor notify the California
29 Tax Credit Allocation Committee or its designee if there is a
30 determination by the Internal Revenue Service that the project is
31 not in compliance with Section 42(g) of the Internal Revenue Code.

32 (7) A requirement that the housing sponsor, as security for the
33 performance of the housing sponsor's obligations under the
34 regulatory agreement, assign the housing sponsor's interest in rents
35 that it receives from the project, provided that until there is a
36 default under the regulatory agreement, the housing sponsor is
37 entitled to collect and retain the rents.

38 (8) The remedies available in the event of a default under the
39 regulatory agreement that is not cured within a reasonable cure
40 period, include, but are not limited to, allowing any of the parties

1 designated to enforce the regulatory agreement to collect all rents
2 with respect to the project; taking possession of the project and
3 operating the project in accordance with the regulatory agreement
4 until the enforcer determines the housing sponsor is in a position
5 to operate the project in accordance with the regulatory agreement;
6 applying to any court for specific performance; securing the
7 appointment of a receiver to operate the project; or any other relief
8 as may be appropriate.

9 (j) (1) The committee shall allocate the housing credit on a
10 regular basis consisting of two or more periods in each calendar
11 year during which applications may be filed and considered. The
12 committee shall establish application filing deadlines, the maximum
13 percentage of federal and state low-income housing tax credit
14 ceiling that may be allocated by the committee in that period, and
15 the approximate date on which allocations shall be made. If the
16 enactment of federal or state law, the adoption of rules or
17 regulations or other similar events prevent the use of two allocation
18 periods, the committee may reduce the number of periods and
19 adjust the filing deadlines, maximum percentage of credit allocated,
20 and the allocation dates.

21 (2) The committee shall adopt a qualified allocation plan, as
22 provided in Section 42(m)(1) of the Internal Revenue Code. In
23 adopting this plan, the committee shall comply with the provisions
24 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
25 Code.

26 (3) Notwithstanding Section 42(m) of the Internal Revenue
27 Code, the California Tax Credit Allocation Committee shall
28 allocate housing credits in accordance with the qualified allocation
29 plan and regulations, which shall include the following provisions:

30 (A) All housing sponsors, as defined by paragraph (3) of
31 subdivision (a), shall demonstrate at the time the application is
32 filed with the committee that the project meets the following
33 threshold requirements:

34 (i) The housing sponsor shall demonstrate there is a need and
35 demand for low-income housing in the community or region for
36 which it is proposed.

37 (ii) The project's proposed financing, including tax credit
38 proceeds, shall be sufficient to complete the project and that the
39 proposed operating income shall be adequate to operate the project
40 for the extended use period.

1 (iii) The project shall have enforceable financing commitments,
2 either construction or permanent financing, for at least 50 percent
3 of the total estimated financing of the project.

4 (iv) The housing sponsor shall have and maintain control of the
5 site for the project.

6 (v) The housing sponsor shall demonstrate that the project
7 complies with all applicable local land use and zoning ordinances.

8 (vi) The housing sponsor shall demonstrate that the project
9 development team has the experience and the financial capacity
10 to ensure project completion and operation for the extended use
11 period.

12 (vii) The housing sponsor shall demonstrate the amount of tax
13 credit that is necessary for the financial feasibility of the project
14 and its viability as a qualified low-income housing project
15 throughout the extended use period, taking into account operating
16 expenses, a supportable debt service, reserves, funds set aside for
17 rental subsidies, and required equity, and a development fee that
18 does not exceed a specified percentage of the eligible basis of the
19 project prior to inclusion of the development fee in the eligible
20 basis, as determined by the committee.

21 (B) The committee shall give a preference to those projects
22 satisfying all of the threshold requirements of subparagraph (A)
23 if both of the following apply:

24 (i) The project serves the lowest income tenants at rents
25 affordable to those tenants.

26 (ii) The project is obligated to serve qualified tenants for the
27 longest period.

28 (C) In addition to the provisions of subparagraphs (A) and (B),
29 the committee shall use the following criteria in allocating housing
30 credits:

31 (i) Projects serving large families in which a substantial number,
32 as defined by the committee of all residential units is comprised
33 of low-income units with three and more bedrooms.

34 (ii) Projects providing single room occupancy units serving very
35 low income tenants.

36 (iii) Existing projects that are “at risk of conversion,” as defined
37 by paragraph (4) of subdivision (c).

38 (iv) Projects for which a public agency provides direct or indirect
39 long-term financial support for at least 15 percent of the total
40 project development costs or projects for which the owner’s equity

1 constitutes at least 30 percent of the total project development
2 costs.

3 (v) Projects that provide tenant amenities not generally available
4 to residents of low-income housing projects.

5 (4) For purposes of allocating credits pursuant to this section,
6 the committee shall not give preference to any project by virtue
7 of the date of submission of its application.

8 (k) Section 42(l) of the Internal Revenue Code shall be modified
9 as follows:

10 The term “secretary” shall be replaced by the term “California
11 Franchise Tax Board.”

12 (l) In the case where the credit allowed under this section
13 exceeds the net tax, the excess credit may be carried over to reduce
14 the net tax in the following year, and succeeding taxable years, if
15 necessary, until the credit has been exhausted.

16 (m) A project that received an allocation of a 1989 federal
17 housing credit dollar amount shall be eligible to receive an
18 allocation of a 1990 state housing credit dollar amount, subject to
19 all of the following conditions:

20 (1) The project was not placed in service prior to 1990.

21 (2) To the extent the amendments made to this section by the
22 Statutes of 1990 conflict with any provisions existing in this section
23 prior to those amendments, the prior provisions of law shall prevail.

24 (3) Notwithstanding paragraph (2), a project applying for an
25 allocation under this subdivision shall be subject to the
26 requirements of paragraph (3) of subdivision (j).

27 (n) The credit period with respect to an allocation of credit in
28 1989 by the California Tax Credit Allocation Committee of which
29 any amount is attributable to unallocated credit from 1987 or 1988
30 shall not begin until after December 31, 1989.

31 (o) The provisions of Section 11407(a) of Public Law 101-508,
32 relating to the effective date of the extension of the low-income
33 housing credit, shall apply to calendar years after 1989.

34 (p) The provisions of Section 11407(c) of Public Law 101-508,
35 relating to election to accelerate credit, shall not apply.

36 (q) Any unused credit may continue to be carried forward, as
37 provided in subdivision (l), until the credit has been exhausted.

38 This section shall remain in effect on and after December 1,
39 1990, for as long as Section 42 of the Internal Revenue Code,
40 relating to low-income housing credits, remains in effect.

(r) The amendments to this section by the act adding this subdivision shall apply only to taxable years beginning on or after January 1, 1994.

SEC. 7. Section 23608.2 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 23608.3 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 23610.5 of the Revenue and Taxation Code is amended to read:

23610.5. (a) (1) There shall be allowed as a credit against the “tax” (as defined by Section 23036) a state low-income housing tax credit in an amount equal to the amount determined in subdivision (c), computed in accordance with Section 42 of the Internal Revenue Code of 1986, except as otherwise provided in this section.

(2) “Taxpayer,” for purposes of this section, means the sole owner in the case of a “C” corporation, the partners in the case of a partnership, and the shareholders in the case of an “S” corporation.

(3) “Housing sponsor,” for purposes of this section, means the sole owner in the case of a “C” corporation, the partnership in the case of a partnership, and the “S” corporation in the case of an “S” corporation.

(b) (1) The amount of the credit allocated to any housing sponsor shall be authorized by the California Tax Credit Allocation Committee, or any successor thereof, based on a project’s need for the credit for economic feasibility in accordance with the requirements of this section.

(A) The low-income housing project shall be located in California and shall meet either of the following requirements:

(i) Except for projects to provide farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, that are allocated credits solely under the set-aside described in subdivision (c) of Section 50199.20 of the Health and Safety Code, the project’s housing sponsor has been allocated by the California Tax Credit Allocation Committee a credit for federal income tax purposes under Section 42 of the Internal Revenue Code.

(ii) It qualifies for a credit under Section 42(h)(4)(B) of the Internal Revenue Code.

1 (B) The California Tax Credit Allocation Committee shall not
2 require fees for the credit under this section in addition to those
3 fees required for applications for the tax credit pursuant to Section
4 42 of the Internal Revenue Code. The committee may require a
5 fee if the application for the credit under this section is submitted
6 in a calendar year after the year the application is submitted for
7 the federal tax credit.

8 (2) (A) The California Tax Credit Allocation Committee shall
9 certify to the housing sponsor the amount of tax credit under this
10 section allocated to the housing sponsor for each credit period.

11 (B) In the case of a partnership or an “S” corporation, the
12 housing sponsor shall provide a copy of the California Tax Credit
13 Allocation Committee certification to the taxpayer.

14 (C) The taxpayer shall, upon request, provide a copy of the
15 certification to the Franchise Tax Board.

16 (D) All elections made by the taxpayer pursuant to Section 42
17 of the Internal Revenue Code shall apply to this section.

18 (E) For buildings located in designated difficult development
19 areas or qualified census tracts as defined in Section 42(d)(5)(C)
20 of the Internal Revenue Code, credits may be allocated under this
21 section in the amounts prescribed in subdivision (c), provided that
22 the amount of credit allocated under Section 42 of the Internal
23 Revenue Code is computed on 100 percent of the qualified basis
24 of the building.

25 (c) Section 42(b) of the Internal Revenue Code shall be modified
26 as follows:

27 (1) In the case of any qualified low-income building placed in
28 service by the housing sponsor during 1987, the term “applicable
29 percentage” means 9 percent for each of the first three years and
30 3 percent for the fourth year for new buildings (whether or not the
31 building is federally subsidized) and for existing buildings.

32 (2) In the case of any qualified low-income building that receives
33 an allocation after 1989 and is a new building not federally
34 subsidized, the term “applicable percentage” means the following:

35 (A) For each of the first three years, the percentage prescribed
36 by the Secretary of the Treasury for new buildings that are not
37 federally subsidized for the taxable year, determined in accordance
38 with the requirements of Section 42(b)(2) of the Internal Revenue
39 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

1 (B) For the fourth year, the difference between 30 percent and
2 the sum of the applicable percentages for the first three years.

3 (3) In the case of any qualified low-income building that receives
4 an allocation after 1989 and that is a new building that is federally
5 subsidized or that is an existing building that is “at risk of
6 conversion,” the term “applicable percentage” means the following:

7 (A) For each of the first three years, the percentage prescribed
8 by the Secretary of the Treasury for new buildings that are federally
9 subsidized for the taxable year.

10 (B) For the fourth year, the difference between 13 percent and
11 the sum of the applicable percentages for the first three years.

12 (4) For purposes of this section, the term “at risk of conversion,”
13 with respect to an existing property means a property that satisfies
14 all of the following criteria:

15 (A) The property is a multifamily rental housing development
16 in which at least 50 percent of the units receive governmental
17 assistance pursuant to any of the following:

18 (i) New construction, substantial rehabilitation, moderate
19 rehabilitation, property disposition, and loan management set-aside
20 programs, or any other program providing project-based assistance
21 pursuant to Section 8 of the United States Housing Act of 1937,
22 Section 1437f of Title 42 of the United States Code, as amended.

23 (ii) The Below-Market-Interest-Rate Program pursuant to
24 Section 221(d)(3) of the National Housing Act, Sections
25 1715l(d)(3) and (5) of Title 12 of the United States Code.

26 (iii) Section 236 of the National Housing Act, Section 1715z-1
27 of Title 12 of the United States Code.

28 (iv) Programs for rent supplement assistance pursuant to Section
29 101 of the Housing and Urban Development Act of 1965, Section
30 1701s of Title 12 of the United States Code, as amended.

31 (v) Programs pursuant to Section 515 of the Housing Act of
32 1949, Section 1485 of Title 42 of the United States Code, as
33 amended.

34 (vi) The low-income housing credit program set forth in Section
35 42 of the Internal Revenue Code.

36 (B) The restrictions on rent and income levels will terminate or
37 the federally insured mortgage on the property is eligible for
38 prepayment anytime within five years before or after the date of
39 application to the California Tax Credit Allocation Committee.

1 (C) The entity acquiring the property enters into a regulatory
2 agreement that requires the property to be operated in accordance
3 with the requirements of this section for a period equal to the
4 greater of 55 years or the life of the property.

5 (D) The property satisfies the requirements of Section 42(e) of
6 the Internal Revenue Code regarding rehabilitation expenditures,
7 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
8 apply.

9 (d) The term “qualified low-income housing project” as defined
10 in Section 42(c)(2) of the Internal Revenue Code is modified by
11 adding the following requirements:

12 (1) The taxpayer shall be entitled to receive a cash distribution
13 from the operations of the project, after funding required reserves,
14 which, at the election of the taxpayer, shall be equal to:

15 (A) An amount not to exceed 8 percent of the lesser of:

16 (i) The owner equity, which shall include the amount of the
17 capital contributions actually paid to the housing sponsor and shall
18 not include any amounts until they are paid on an investor note.

19 (ii) Twenty percent of the adjusted basis of the building as of
20 the close of the first taxable year of the credit period.

21 (B) The amount of the cashflow from those units in the building
22 that are not low-income units. For purposes of computing cashflow
23 under this subparagraph, operating costs shall be allocated to the
24 low-income units using the “floor space fraction,” as defined in
25 Section 42 of the Internal Revenue Code.

26 (C) Any amount allowed to be distributed under subparagraph
27 (A) that is not available for distribution during the first five years
28 of the compliance period may accumulate and be distributed at
29 any time during the first 15 years of the compliance period but not
30 thereafter.

31 (2) The limitation on return shall apply in the aggregate to the
32 partners if the housing sponsor is a partnership and in the aggregate
33 to the shareholders if the housing sponsor is an “S” corporation.

34 (3) The housing sponsor shall apply any cash available for
35 distribution in excess of the amount eligible to be distributed under
36 paragraph (1) to reduce the rent on rent-restricted units or to
37 increase the number of rent-restricted units subject to the tests of
38 Section 42(g)(1) of the Internal Revenue Code.

39 (e) The provisions of Section 42(f) of the Internal Revenue Code
40 shall be modified as follows:

1 (1) The term “credit period” as defined in Section 42(f)(1) of
2 the Internal Revenue Code is modified by substituting “four taxable
3 years” for “10 taxable years.”

4 (2) The special rule for the first taxable year of the credit period
5 under Section 42(f)(2) of the Internal Revenue Code shall not apply
6 to the tax credit under this section.

7 (3) Section 42(f)(3) of the Internal Revenue Code is modified
8 to read:

9 If, as of the close of any taxable year in the compliance period,
10 after the first year of the credit period, the qualified basis of any
11 building exceeds the qualified basis of that building as of the close
12 of the first year of the credit period, the housing sponsor, to the
13 extent of its tax credit allocation, shall be eligible for a credit on
14 the excess in an amount equal to the applicable percentage
15 determined pursuant to subdivision (c) for the four-year period
16 beginning with the later of the taxable years in which the increase
17 in qualified basis occurs.

18 (f) The provisions of Section 42(h) of the Internal Revenue
19 Code shall be modified as follows:

20 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
21 applicable and instead the following provisions shall be applicable:

22 The total amount for the four-year credit period of the housing
23 credit dollars allocated in a calendar year to any building shall
24 reduce the aggregate housing credit dollar amount of the California
25 Tax Credit Allocation Committee for the calendar year in which
26 the allocation is made.

27 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
28 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
29 not be applicable.

30 (g) The aggregate housing credit dollar amount that may be
31 allocated annually by the California Tax Credit Allocation
32 Committee pursuant to this section, Section 12206, and Section
33 17058 shall be an amount equal to the sum of all the following:

34 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
35 year, and, for the 2002 calendar year and each calendar year
36 thereafter, seventy million dollars (\$70,000,000) increased by the
37 percentage, if any, by which the Consumer Price Index for the
38 preceding calendar year exceeds the Consumer Price Index for the
39 2001 calendar year. For the purposes of this paragraph, the term

1 “Consumer Price Index” means the last Consumer Price Index for
2 all urban consumers published by the federal Department of Labor.

3 (2) The unused housing credit ceiling, if any, for the preceding
4 calendar years.

5 (3) The amount of housing credit ceiling returned in the calendar
6 year. For purposes of this paragraph, the amount of housing credit
7 dollar amount returned in the calendar year equals the housing
8 credit dollar amount previously allocated to any project that does
9 not become a qualified low-income housing project within the
10 period required by this section or to any project with respect to
11 which an allocation is canceled by mutual consent of the California
12 Tax Credit Allocation Committee and the allocation recipient.

13 (4) Five hundred thousand dollars (\$500,000) per calendar year
14 for projects to provide farmworker housing, as defined in
15 subdivision (h) of Section 50199.7 of the Health and Safety Code.

16 (5) The amount of any unallocated or returned credits under
17 former Sections 17053.14, 23608.2, and 23608.3, as those sections
18 read prior to January 1, 2009, until fully exhausted for projects to
19 provide farmworker housing, as defined in subdivision (h) of
20 Section 50199.7 of the Health and Safety Code.

21 (h) The term “compliance period” as defined in Section 42(i)(1)
22 of the Internal Revenue Code is modified to mean, with respect to
23 any building, the period of 30 consecutive taxable years beginning
24 with the first taxable year of the credit period with respect thereto.

25 (i) Section 42(j) of the Internal Revenue Code shall not be
26 applicable and the following shall be substituted in its place:

27 The requirements of this section shall be set forth in a regulatory
28 agreement between the California Tax Credit Allocation Committee
29 and the housing sponsor, and this agreement shall be subordinated,
30 when required, to any lien or encumbrance of any banks or other
31 institutional lenders to the project. The regulatory agreement
32 entered into pursuant to subdivision (f) of Section 50199.14 of the
33 Health and Safety Code shall apply, provided that the agreement
34 includes all of the following provisions:

35 (1) A term not less than the compliance period.

36 (2) A requirement that the agreement be filed in the official
37 records of the county in which the qualified low-income housing
38 project is located.

1 (3) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing sponsor
3 fails to satisfy any of the requirements of this section.

4 (4) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries
6 thereto, and that allows individuals, whether prospective, present,
7 or former occupants of the building, who meet the income
8 limitation applicable to the building the right to enforce the
9 regulatory agreement in any state court.

10 (5) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (6) A requirement that the housing sponsor notify the California
13 Tax Credit Allocation Committee or its designee if there is a
14 determination by the Internal Revenue Service that the project is
15 not in compliance with Section 42(g) of the Internal Revenue Code.

16 (7) A requirement that the housing sponsor, as security for the
17 performance of the housing sponsor's obligations under the
18 regulatory agreement, assign the housing sponsor's interest in rents
19 that it receives from the project, provided that until there is a
20 default under the regulatory agreement, the housing sponsor is
21 entitled to collect and retain the rents.

22 (8) A provision that the remedies available in the event of a
23 default under the regulatory agreement that is not cured within a
24 reasonable cure period include, but are not limited to, allowing
25 any of the parties designated to enforce the regulatory agreement
26 to collect all rents with respect to the project; taking possession of
27 the project and operating the project in accordance with the
28 regulatory agreement until the enforcer determines the housing
29 sponsor is in a position to operate the project in accordance with
30 the regulatory agreement; applying to any court for specific
31 performance; securing the appointment of a receiver to operate
32 the project; or any other relief as may be appropriate.

33 (j) (1) The committee shall allocate the housing credit on a
34 regular basis consisting of two or more periods in each calendar
35 year during which applications may be filed and considered. The
36 committee shall establish application filing deadlines, the maximum
37 percentage of federal and state low-income housing tax credit
38 ceiling that may be allocated by the committee in that period, and
39 the approximate date on which allocations shall be made. If the
40 enactment of federal or state law, the adoption of rules or

1 regulations, or other similar events prevent the use of two allocation
2 periods, the committee may reduce the number of periods and
3 adjust the filing deadlines, maximum percentage of credit allocated,
4 and allocation dates.

5 (2) The committee shall adopt a qualified allocation plan, as
6 provided in Section 42(m)(1) of the Internal Revenue Code. In
7 adopting this plan, the committee shall comply with the provisions
8 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
9 Code.

10 (3) Notwithstanding Section 42(m) of the Internal Revenue
11 Code, the California Tax Credit Allocation Committee shall
12 allocate housing credits in accordance with the qualified allocation
13 plan and regulations, which shall include the following provisions:

14 (A) All housing sponsors, as defined by paragraph (3) of
15 subdivision (a), shall demonstrate at the time the application is
16 filed with the committee that the project meets the following
17 threshold requirements:

18 (i) The housing sponsor shall demonstrate that there is a need
19 for low-income housing in the community or region for which it
20 is proposed.

21 (ii) The project's proposed financing, including tax credit
22 proceeds, shall be sufficient to complete the project and shall be
23 adequate to operate the project for the extended use period.

24 (iii) The project shall have enforceable financing commitments,
25 either construction or permanent financing, for at least 50 percent
26 of the total estimated financing of the project.

27 (iv) The housing sponsor shall have and maintain control of the
28 site for the project.

29 (v) The housing sponsor shall demonstrate that the project
30 complies with all applicable local land use and zoning ordinances.

31 (vi) The housing sponsor shall demonstrate that the project
32 development team has the experience and the financial capacity
33 to ensure project completion and operation for the extended use
34 period.

35 (vii) The housing sponsor shall demonstrate the amount of tax
36 credit that is necessary for the financial feasibility of the project
37 and its viability as a qualified low-income housing project
38 throughout the extended use period, taking into account operating
39 expenses, a supportable debt service, reserves, funds set aside for
40 rental subsidies, and required equity, and a development fee that

1 does not exceed a specified percentage of the eligible basis of the
2 project prior to inclusion of the development fee in the eligible
3 basis, as determined by the committee.

4 (B) The committee shall give a preference to those projects
5 satisfying all of the threshold requirements of subparagraph (A)
6 if both of the following apply:

7 (i) The project serves the lowest income tenants at rents
8 affordable to those tenants.

9 (ii) The project is obligated to serve qualified tenants for the
10 longest period.

11 (C) In addition to the provisions of subparagraphs (A) and (B),
12 the committee shall use the following criteria in allocating housing
13 credits:

14 (i) Projects serving large families in which a substantial number,
15 as defined by the committee, of all residential units are low-income
16 units with three and more bedrooms.

17 (ii) Projects providing single-room occupancy units serving
18 very low income tenants.

19 (iii) Existing projects that are “at risk of conversion,” as defined
20 by paragraph (4) of subdivision (c).

21 (iv) Projects for which a public agency provides direct or indirect
22 long-term financial support for at least 15 percent of the total
23 project development costs or projects for which the owner’s equity
24 constitutes at least 30 percent of the total project development
25 costs.

26 (v) Projects that provide tenant amenities not generally available
27 to residents of low-income housing projects.

28 (4) For purposes of allocating credits pursuant to this section,
29 the committee shall not give preference to any project by virtue
30 of the date of submission of its application except to break a tie
31 when two or more of the projects have an equal rating.

32 (5) Not less than 20 percent of the low-income housing tax
33 credits available annually under this section, Section 12206, and
34 Section 17058 shall be set aside for allocation to rural areas as
35 defined in Section 50199.21 of the Health and Safety Code. Any
36 amount of credit set aside for rural areas remaining on or after
37 October 31 of any calendar year shall be available for allocation
38 to any eligible project. No amount of credit set aside for rural areas
39 shall be considered available for any eligible project so long as
40 there are eligible rural applications pending on October 31.

1 (k) Section 42(l) of the Internal Revenue Code shall be modified
2 as follows:

3 The term “secretary” shall be replaced by the term “California
4 Franchise Tax Board.”

5 (l) In the case where the state credit allowed under this section
6 exceeds the “tax,” the excess may be carried over to reduce the
7 “tax” in the following year, and succeeding years if necessary,
8 until the credit has been exhausted.

9 (m) A project that received an allocation of a 1989 federal
10 housing credit dollar amount shall be eligible to receive an
11 allocation of a 1990 state housing credit dollar amount, subject to
12 all of the following conditions:

13 (1) The project was not placed in service prior to 1990.

14 (2) To the extent the amendments made to this section by the
15 Statutes of 1990 conflict with any provisions existing in this section
16 prior to those amendments, the prior provisions of law shall prevail.

17 (3) Notwithstanding paragraph (2), a project applying for an
18 allocation under this subdivision shall be subject to the
19 requirements of paragraph (3) of subdivision (j).

20 (n) The credit period with respect to an allocation of credit in
21 1989 by the California Tax Credit Allocation Committee of which
22 any amount is attributable to unallocated credit from 1987 or 1988
23 shall not begin until after December 31, 1989.

24 (o) The provisions of Section 11407(a) of Public Law 101-508,
25 relating to the effective date of the extension of the low-income
26 housing credit, shall apply to calendar years after 1989.

27 (p) The provisions of Section 11407(c) of Public Law 101-508,
28 relating to election to accelerate credit, shall not apply.

29 (q) (1) A corporation may elect to assign any portion of any
30 credit allowed under this section to one or more affiliated
31 corporations for each taxable year in which the credit is allowed.
32 For purposes of this subdivision, “affiliated corporation” has the
33 meaning provided in subdivision (b) of Section 25110, as that
34 section was amended by Chapter 881 of the Statutes of 1993, as
35 of the last day of the taxable year in which the credit is allowed,
36 except that “100 percent” is substituted for “more than 50 percent”
37 wherever it appears in the section, as that section was amended by
38 Chapter 881 of the Statutes of 1993, and “voting common stock”
39 is substituted for “voting stock” wherever it appears in the section,

1 as that section was amended by Chapter 881 of the Statutes of
2 1993.

3 (2) The election provided in paragraph (1):

4 (A) May be based on any method selected by the corporation
5 that originally receives the credit.

6 (B) Shall be irrevocable for the taxable year the credit is allowed,
7 once made.

8 (C) May be changed for any subsequent taxable year if the
9 election to make the assignment is expressly shown on each of the
10 returns of the affiliated corporations that assign and receive the
11 credits.

12 (r) Any unused credit may continue to be carried forward, as
13 provided in subdivision (k), until the credit has been exhausted.

14 This section shall remain in effect on or after December 1, 1990,
15 for as long as Section 42 of the Internal Revenue Code, relating
16 to low-income housing credits, remains in effect.

17 (s) The amendments to this section made by the act adding this
18 subdivision shall apply only to taxable years beginning on or after
19 January 1, 1994, except that paragraph (1) of subdivision (q), as
20 amended, shall apply to taxable years beginning on or after January
21 1, 1993.

22 *SEC. 9.5. Section 23610.5 of the Revenue and Taxation Code*
23 *is amended to read:*

24 23610.5. (a) (1) There shall be allowed as a credit against the
25 “tax” (as defined by Section 23036) a state low-income housing
26 tax credit in an amount equal to the amount determined in
27 subdivision (c), computed in accordance with Section 42 of the
28 Internal Revenue Code of 1986, except as otherwise provided in
29 this section.

30 (2) “Taxpayer,” for purposes of this section, means the sole
31 owner in the case of a “C” corporation, the partners in the case of
32 a partnership, and the shareholders in the case of an “S”
33 corporation.

34 (3) “Housing sponsor,” for purposes of this section, means the
35 sole owner in the case of a “C” corporation, the partnership in the
36 case of a partnership, and the “S” corporation in the case of an “S”
37 corporation.

38 (b) (1) The amount of the credit allocated to any housing
39 sponsor shall be authorized by the California Tax Credit Allocation
40 Committee, or any successor thereof, based on a project’s need

1 for the credit for economic feasibility in accordance with the
2 requirements of this section.

3 (A) The low-income housing project shall be located in
4 California and shall meet either of the following requirements:

5 (i) ~~The~~ *Except for projects to provide farmworker housing, as*
6 *defined in subdivision (h) of Section 50199.7 of the Health and*
7 *Safety Code, that are allocated credits solely under the set aside*
8 *described in subdivision (c) of Section 50199.20 of the Health and*
9 *Safety Code, the project's housing sponsor has been allocated by*
10 *the California Tax Credit Allocation Committee a credit for federal*
11 *income tax purposes under Section 42 of the Internal Revenue*
12 *Code.*

13 (ii) It qualifies for a credit under Section 42(h)(4)(B) of the
14 Internal Revenue Code.

15 (B) The California Tax Credit Allocation Committee shall not
16 require fees for the credit under this section in addition to those
17 fees required for applications for the tax credit pursuant to Section
18 42 of the Internal Revenue Code. The committee may require a
19 fee if the application for the credit under this section is submitted
20 in a calendar year after the year the application is submitted for
21 the federal tax credit.

22 (C) (i) *For a project that receives a preliminary reservation of*
23 *the state low-income housing tax credit, allowed pursuant to*
24 *subdivision (a), on or after January 1, 2009, and before January*
25 *1, 2016, the credit shall be allocated to the partners of a*
26 *partnership owning the project in accordance with the partnership*
27 *agreement, regardless of how the federal low-income housing tax*
28 *credit with respect to the project is allocated to the partners, or*
29 *whether the allocation of the credit under the terms of the*
30 *agreement has substantial economic effect, within the meaning of*
31 *Section 704(b) of the Internal Revenue Code.*

32 (ii) *To the extent the allocation of the credit to a partner under*
33 *this section lacks substantial economic effect, any loss or deduction*
34 *otherwise allowable under this part that is attributable to the sale*
35 *or other disposition of that partner's partnership interest made*
36 *prior to the expiration of the federal credit shall not be allowed*
37 *in the taxable year in which the sale or other disposition occurs,*
38 *but shall instead be deferred until and treated as if it occurred in*
39 *the first taxable year immediately following the taxable year in*

1 *which the federal credit period expires for the project described*
2 *in clause (i).*

3 *(iii) This subparagraph shall cease to be operative with respect*
4 *to any project that receives a preliminary reservation of a credit*
5 *on or after January 1, 2016.*

6 (2) (A) The California Tax Credit Allocation Committee shall
7 certify to the housing sponsor the amount of tax credit under this
8 section allocated to the housing sponsor for each credit period.

9 (B) In the case of a partnership or an “S” corporation, the
10 housing sponsor shall provide a copy of the California Tax Credit
11 Allocation Committee certification to the taxpayer.

12 (C) The taxpayer shall, upon request, provide a copy of the
13 certification to the Franchise Tax Board.

14 (D) All elections made by the taxpayer pursuant to Section 42
15 of the Internal Revenue Code shall apply to this section.

16 (E) For buildings located in designated difficult development
17 areas or qualified census tracts as defined in Section 42(d)(5)(C)
18 of the Internal Revenue Code, credits may be allocated under this
19 section in the amounts prescribed in subdivision (c), provided that
20 the amount of credit allocated under Section 42 of the Internal
21 Revenue Code is computed on 100 percent of the qualified basis
22 of the building.

23 (c) Section 42(b) of the Internal Revenue Code shall be modified
24 as follows:

25 (1) In the case of any qualified low-income building placed in
26 service by the housing sponsor during 1987, the term “applicable
27 percentage” means 9 percent for each of the first three years and
28 3 percent for the fourth year for new buildings (whether or not the
29 building is federally subsidized) and for existing buildings.

30 (2) In the case of any qualified low-income building that receives
31 an allocation after 1989 and is a new building not federally
32 subsidized, the term “applicable percentage” means the following:

33 (A) For each of the first three years, the percentage prescribed
34 by the Secretary of the Treasury for new buildings that are not
35 federally subsidized for the taxable year, determined in accordance
36 with the requirements of Section 42(b)(2) of the Internal Revenue
37 Code, in lieu of the percentage prescribed in Section 42(b)(1)(A).

38 (B) For the fourth year, the difference between 30 percent and
39 the sum of the applicable percentages for the first three years.

1 (3) In the case of any qualified low-income building that receives
2 an allocation after 1989 and that is a new building that is federally
3 subsidized or that is an existing building that is “at risk of
4 conversion,” the term “applicable percentage” means the following:

5 (A) For each of the first three years, the percentage prescribed
6 by the Secretary of the Treasury for new buildings that are federally
7 subsidized for the taxable year.

8 (B) For the fourth year, the difference between 13 percent and
9 the sum of the applicable percentages for the first three years.

10 (4) For purposes of this section, the term “at risk of conversion,”
11 with respect to an existing property means a property that satisfies
12 all of the following criteria:

13 (A) The property is a multifamily rental housing development
14 in which at least 50 percent of the units receive governmental
15 assistance pursuant to any of the following:

16 (i) New construction, substantial rehabilitation, moderate
17 rehabilitation, property disposition, and loan management set-aside
18 programs, or any other program providing project-based assistance
19 pursuant to Section 8 of the United States Housing Act of 1937,
20 Section 1437f of Title 42 of the United States Code, as amended.

21 (ii) The Below-Market-Interest-Rate Program pursuant to
22 Section 221(d)(3) of the National Housing Act, Sections
23 1715l(d)(3) and (5) of Title 12 of the United States Code.

24 (iii) Section 236 of the National Housing Act, Section 1715z-1
25 of Title 12 of the United States Code.

26 (iv) Programs for rent supplement assistance pursuant to Section
27 101 of the Housing and Urban Development Act of 1965, Section
28 1701s of Title 12 of the United States Code, as amended.

29 (v) Programs pursuant to Section 515 of the Housing Act of
30 1949, Section 1485 of Title 42 of the United States Code, as
31 amended.

32 (vi) The low-income housing credit program set forth in Section
33 42 of the Internal Revenue Code.

34 (B) The restrictions on rent and income levels will terminate or
35 the federally insured mortgage on the property is eligible for
36 prepayment ~~anytime~~ *any time* within five years before or after the
37 date of application to the California Tax Credit Allocation
38 Committee.

39 (C) The entity acquiring the property enters into a regulatory
40 agreement that requires the property to be operated in accordance

1 with the requirements of this section for a period equal to the
2 greater of 55 years or the life of the property.

3 (D) The property satisfies the requirements of Section 42(e) of
4 the Internal Revenue Code regarding rehabilitation expenditures,
5 except that the provisions of Section 42(e)(3)(A)(ii)(I) shall not
6 apply.

7 (d) The term “qualified low-income housing project” as defined
8 in Section 42(c)(2) of the Internal Revenue Code is modified by
9 adding the following requirements:

10 (1) The taxpayer shall be entitled to receive a cash distribution
11 from the operations of the project, after funding required reserves,
12 which, at the election of the taxpayer, shall be equal to:

13 (A) An amount not to exceed 8 percent of the lesser of:

14 (i) The owner equity, which shall include the amount of the
15 capital contributions actually paid to the housing sponsor and shall
16 not include any amounts until they are paid on an investor note.

17 (ii) Twenty percent of the adjusted basis of the building as of
18 the close of the first taxable year of the credit period.

19 (B) The amount of the cashflow from those units in the building
20 that are not low-income units. For purposes of computing cashflow
21 under this subparagraph, operating costs shall be allocated to the
22 low-income units using the “floor space fraction,” as defined in
23 Section 42 of the Internal Revenue Code.

24 (C) Any amount allowed to be distributed under subparagraph
25 (A) that is not available for distribution during the first five years
26 of the compliance period may accumulate and be distributed at
27 any time during the first 15 years of the compliance period but not
28 thereafter.

29 (2) The limitation on return shall apply in the aggregate to the
30 partners if the housing sponsor is a partnership and in the aggregate
31 to the shareholders if the housing sponsor is an “S” corporation.

32 (3) The housing sponsor shall apply any cash available for
33 distribution in excess of the amount eligible to be distributed under
34 paragraph (1) to reduce the rent on rent-restricted units or to
35 increase the number of rent-restricted units subject to the tests of
36 Section 42(g)(1) of the Internal Revenue Code.

37 (e) The provisions of Section 42(f) of the Internal Revenue Code
38 shall be modified as follows:

1 (1) The term “credit period” as defined in Section 42(f)(1) of
2 the Internal Revenue Code is modified by substituting “four taxable
3 years” for “10 taxable years.”

4 (2) The special rule for the first taxable year of the credit period
5 under Section 42(f)(2) of the Internal Revenue Code shall not apply
6 to the tax credit under this section.

7 (3) Section 42(f)(3) of the Internal Revenue Code is modified
8 to read:

9 If, as of the close of any taxable year in the compliance period,
10 after the first year of the credit period, the qualified basis of any
11 building exceeds the qualified basis of that building as of the close
12 of the first year of the credit period, the housing sponsor, to the
13 extent of its tax credit allocation, shall be eligible for a credit on
14 the excess in an amount equal to the applicable percentage
15 determined pursuant to subdivision (c) for the four-year period
16 beginning with the later of the taxable years in which the increase
17 in qualified basis occurs.

18 (f) The provisions of Section 42(h) of the Internal Revenue
19 Code shall be modified as follows:

20 (1) Section 42(h)(2) of the Internal Revenue Code shall not be
21 applicable and instead the following provisions shall be applicable:

22 The total amount for the four-year credit period of the housing
23 credit dollars allocated in a calendar year to any building shall
24 reduce the aggregate housing credit dollar amount of the California
25 Tax Credit Allocation Committee for the calendar year in which
26 the allocation is made.

27 (2) Paragraphs (3), (4), (5), (6)(E)(i)(II), (6)(F), (6)(G), (6)(I),
28 (7), and (8) of Section 42(h) of the Internal Revenue Code shall
29 not be applicable.

30 (g) The aggregate housing credit dollar amount that may be
31 allocated annually by the California Tax Credit Allocation
32 Committee pursuant to this section, Section 12206, and Section
33 17058 shall be an amount equal to the sum of all the following:

34 (1) Seventy million dollars (\$70,000,000) for the 2001 calendar
35 year, and, for the 2002 calendar year and each calendar year
36 thereafter, seventy million dollars (\$70,000,000) increased by the
37 percentage, if any, by which the Consumer Price Index for the
38 preceding calendar year exceeds the Consumer Price Index for the
39 2001 calendar year. For the purposes of this paragraph, the term

1 “Consumer Price Index” means the last Consumer Price Index for
2 all urban consumers published by the federal Department of Labor.

3 (2) The unused housing credit ceiling, if any, for the preceding
4 calendar years.

5 (3) The amount of housing credit ceiling returned in the calendar
6 year. For purposes of this paragraph, the amount of housing credit
7 dollar amount returned in the calendar year equals the housing
8 credit dollar amount previously allocated to any project that does
9 not become a qualified low-income housing project within the
10 period required by this section or to any project with respect to
11 which an allocation is canceled by mutual consent of the California
12 Tax Credit Allocation Committee and the allocation recipient.

13 (4) *Five hundred thousand dollars (\$500,000) per calendar*
14 *year for projects to provide farmworker housing, as defined in*
15 *subdivision (h) of Section 50199.7 of the Health and Safety Code.*

16 (5) *The amount of any unallocated or returned credits under*
17 *former Sections 17053.14, 23608.2, and 23608.3, as those sections*
18 *read prior to January 1, 2009, until fully exhausted for projects*
19 *to provide farmworker housing, as defined in subdivision (h) of*
20 *Section 50199.7 of the Health and Safety Code.*

21 (h) The term “compliance period” as defined in Section 42(i)(1)
22 of the Internal Revenue Code is modified to mean, with respect to
23 any building, the period of 30 consecutive taxable years beginning
24 with the first taxable year of the credit period with respect thereto.

25 (i) Section 42(j) of the Internal Revenue Code shall not be
26 applicable and the following shall be substituted in its place:

27 The requirements of this section shall be set forth in a regulatory
28 agreement between the California Tax Credit Allocation Committee
29 and the housing sponsor, and this agreement shall be subordinated,
30 when required, to any lien or encumbrance of any banks or other
31 institutional lenders to the project. The regulatory agreement
32 entered into pursuant to subdivision (f) of Section 50199.14 of the
33 Health and Safety Code shall apply, provided that the agreement
34 includes all of the following provisions:

35 (1) A term not less than the compliance period.

36 (2) A requirement that the agreement be filed in the official
37 records of the county in which the qualified low-income housing
38 project is located.

1 (3) A provision stating which state and local agencies can
2 enforce the regulatory agreement in the event the housing sponsor
3 fails to satisfy any of the requirements of this section.

4 (4) A provision that the regulatory agreement shall be deemed
5 a contract enforceable by tenants as third-party beneficiaries
6 thereto, and that allows individuals, whether prospective, present,
7 or former occupants of the building, who meet the income
8 limitation applicable to the building the right to enforce the
9 regulatory agreement in any state court.

10 (5) A provision incorporating the requirements of Section 42
11 of the Internal Revenue Code as modified by this section.

12 (6) A requirement that the housing sponsor notify the California
13 Tax Credit Allocation Committee or its designee if there is a
14 determination by the Internal Revenue Service that the project is
15 not in compliance with Section 42(g) of the Internal Revenue Code.

16 (7) A requirement that the housing sponsor, as security for the
17 performance of the housing sponsor's obligations under the
18 regulatory agreement, assign the housing sponsor's interest in rents
19 that it receives from the project, provided that until there is a
20 default under the regulatory agreement, the housing sponsor is
21 entitled to collect and retain the rents.

22 (8) A provision that the remedies available in the event of a
23 default under the regulatory agreement that is not cured within a
24 reasonable cure period include, but are not limited to, allowing
25 any of the parties designated to enforce the regulatory agreement
26 to collect all rents with respect to the project; taking possession of
27 the project and operating the project in accordance with the
28 regulatory agreement until the enforcer determines the housing
29 sponsor is in a position to operate the project in accordance with
30 the regulatory agreement; applying to any court for specific
31 performance; securing the appointment of a receiver to operate
32 the project; or any other relief as may be appropriate.

33 (j) (1) The committee shall allocate the housing credit on a
34 regular basis consisting of two or more periods in each calendar
35 year during which applications may be filed and considered. The
36 committee shall establish application filing deadlines, the maximum
37 percentage of federal and state low-income housing tax credit
38 ceiling that may be allocated by the committee in that period, and
39 the approximate date on which allocations shall be made. If the
40 enactment of federal or state law, the adoption of rules or

1 regulations, or other similar events prevent the use of two allocation
2 periods, the committee may reduce the number of periods and
3 adjust the filing deadlines, maximum percentage of credit allocated,
4 and allocation dates.

5 (2) The committee shall adopt a qualified allocation plan, as
6 provided in Section 42(m)(1) of the Internal Revenue Code. In
7 adopting this plan, the committee shall comply with the provisions
8 of Sections 42(m)(1)(B) and 42(m)(1)(C) of the Internal Revenue
9 Code.

10 (3) Notwithstanding Section 42(m) of the Internal Revenue
11 Code, the California Tax Credit Allocation Committee shall
12 allocate housing credits in accordance with the qualified allocation
13 plan and regulations, which shall include the following provisions:

14 (A) All housing sponsors, as defined by paragraph (3) of
15 subdivision (a), shall demonstrate at the time the application is
16 filed with the committee that the project meets the following
17 threshold requirements:

18 (i) The housing sponsor shall demonstrate that there is a need
19 for low-income housing in the community or region for which it
20 is proposed.

21 (ii) The project's proposed financing, including tax credit
22 proceeds, shall be sufficient to complete the project and shall be
23 adequate to operate the project for the extended use period.

24 (iii) The project shall have enforceable financing commitments,
25 either construction or permanent financing, for at least 50 percent
26 of the total estimated financing of the project.

27 (iv) The housing sponsor shall have and maintain control of the
28 site for the project.

29 (v) The housing sponsor shall demonstrate that the project
30 complies with all applicable local land use and zoning ordinances.

31 (vi) The housing sponsor shall demonstrate that the project
32 development team has the experience and the financial capacity
33 to ensure project completion and operation for the extended use
34 period.

35 (vii) The housing sponsor shall demonstrate the amount of tax
36 credit that is necessary for the financial feasibility of the project
37 and its viability as a qualified low-income housing project
38 throughout the extended use period, taking into account operating
39 expenses, a supportable debt service, reserves, funds set aside for
40 rental subsidies, and required equity, and a development fee that

1 does not exceed a specified percentage of the eligible basis of the
2 project prior to inclusion of the development fee in the eligible
3 basis, as determined by the committee.

4 (B) The committee shall give a preference to those projects
5 satisfying all of the threshold requirements of subparagraph (A)
6 if both of the following apply:

7 (i) The project serves the lowest income tenants at rents
8 affordable to those tenants.

9 (ii) The project is obligated to serve qualified tenants for the
10 longest period.

11 (C) In addition to the provisions of subparagraphs (A) and (B),
12 the committee shall use the following criteria in allocating housing
13 credits:

14 (i) Projects serving large families in which a substantial number,
15 as defined by the committee, of all residential units are low-income
16 units with three and more bedrooms.

17 (ii) Projects providing single-room occupancy units serving
18 very low income tenants.

19 (iii) Existing projects that are “at risk of conversion,” as defined
20 by paragraph (4) of subdivision (c).

21 (iv) Projects for which a public agency provides direct or indirect
22 long-term financial support for at least 15 percent of the total
23 project development costs or projects for which the owner’s equity
24 constitutes at least 30 percent of the total project development
25 costs.

26 (v) Projects that provide tenant amenities not generally available
27 to residents of low-income housing projects.

28 (4) For purposes of allocating credits pursuant to this section,
29 the committee shall not give preference to any project by virtue
30 of the date of submission of its application except to break a tie
31 when two or more of the projects have an equal rating.

32 (5) Not less than 20 percent of the low-income housing tax
33 credits available annually under this section, Section 12206, and
34 Section 17058 shall be set aside for allocation to rural areas as
35 defined in Section 50199.21 of the Health and Safety Code. Any
36 amount of credit set aside for rural areas remaining on or after
37 October 31 of any calendar year shall be available for allocation
38 to any eligible project. No amount of credit set aside for rural areas
39 shall be considered available for any eligible project so long as
40 there are eligible rural applications pending on October 31.

(k) Section 42(l) of the Internal Revenue Code shall be modified as follows:

The term “secretary” shall be replaced by the term “California Franchise Tax Board.”

(l) In the case where the state credit allowed under this section exceeds the “tax,” the excess may be carried over to reduce the “tax” in the following year, and succeeding years if necessary, until the credit has been exhausted.

(m) A project that received an allocation of a 1989 federal housing credit dollar amount shall be eligible to receive an allocation of a 1990 state housing credit dollar amount, subject to all of the following conditions:

(1) The project was not placed in service prior to 1990.

(2) To the extent the amendments made to this section by the Statutes of 1990 conflict with any provisions existing in this section prior to those amendments, the prior provisions of law shall prevail.

(3) Notwithstanding paragraph (2), a project applying for an allocation under this subdivision shall be subject to the requirements of paragraph (3) of subdivision (j).

(n) The credit period with respect to an allocation of credit in 1989 by the California Tax Credit Allocation Committee of which any amount is attributable to unallocated credit from 1987 or 1988 shall not begin until after December 31, 1989.

(o) The provisions of Section 11407(a) of Public Law 101-508, relating to the effective date of the extension of the low-income housing credit, shall apply to calendar years after 1989.

(p) The provisions of Section 11407(c) of Public Law 101-508, relating to election to accelerate credit, shall not apply.

(q) (1) A corporation may elect to assign any portion of any credit allowed under this section to one or more affiliated corporations for each taxable year in which the credit is allowed. For purposes of this subdivision, “affiliated corporation” has the meaning provided in subdivision (b) of Section 25110, as that section was amended by Chapter 881 of the Statutes of 1993, as of the last day of the taxable year in which the credit is allowed, except that “100 percent” is substituted for “more than 50 percent” wherever it appears in the section, as that section was amended by Chapter 881 of the Statutes of 1993, and “voting common stock” is substituted for “voting stock” wherever it appears in the section,

1 as that section was amended by Chapter 881 of the Statutes of
2 1993.

3 (2) The election provided in paragraph (1):

4 (A) May be based on any method selected by the corporation
5 that originally receives the credit.

6 (B) Shall be irrevocable for the taxable year the credit is allowed,
7 once made.

8 (C) May be changed for any subsequent taxable year if the
9 election to make the assignment is expressly shown on each of the
10 returns of the affiliated corporations that assign and receive the
11 credits.

12 (r) Any unused credit may continue to be carried forward, as
13 provided in subdivision (k), until the credit has been exhausted.

14 This section shall remain in effect on or after December 1, 1990,
15 for as long as Section 42 of the Internal Revenue Code, relating
16 to low-income housing credits, remains in effect.

17 (s) The amendments to this section made by the act adding this
18 subdivision shall apply only to taxable years beginning on or after
19 January 1, 1994, except that paragraph (1) of subdivision (q), as
20 amended, shall apply to taxable years beginning on or after January
21 1, 1993.

22 *SEC. 10. Sections 4.5, 6.5, and 9.5 of this bill incorporate*
23 *amendments to Sections 12206, 17058, and 23610.5 of the Revenue*
24 *and Taxation Code proposed by both this bill and SB 585. Sections*
25 *4.5, 6.5, and 9.5 shall only become operative if (1) both bills are*
26 *enacted and become effective on or before January 1, 2009, (2)*
27 *each bill amends Sections 12206, 17058, and 23610.5 of the*
28 *Revenue and Taxation Code, and (3) this bill is enacted after SB*
29 *585, in which case Sections 12206, 17058, and 23610.5 of the*
30 *Revenue and Taxation Code as amended by SB 585, shall remain*
31 *operative only until the operative date of this bill, at which time*
32 *Sections 4.5, 6.5, and 9.5 of this bill shall become operative, and*
33 *Sections 4, 6, and 9 of this bill shall not become operative.*